Ceylon. Laws, statutes, etc. Revised statutes

A

REVISED EDITION OF THE

LEGISLATIVE ENACTMENTS

OF

CEYLON.

VOLUME I.—1656-1879.

By Authority.

COLOMBO:
GEORGE J. A. SKEEN, GOVERNMENT PRINTER, CEYLON.

1900.

Digitized by Google

Ay
132.
900

Rec. Jan. 26, 1904.

Digitized by Google

PREFACE.

In preparing this edition of the Legislative Enactments of Ceylon, we have in accordance with instructions, adopted the following principles.

Where an Ordinance has been amended by a later Ordinance or Ordinances, such amendments have been incorporated verbatim in the principal Ordinance and are printed in italics with marginal references to the amending Ordinances.

Unless an amending Ordinance is entirely incorporated in a principal Ordinance it will be found printed in small type under the principal Ordinance, where also will be found printed all the Ordinances relative to the subject of the principal Ordinance, so that the reader is enabled to peruse in one place the whole of the written law on any particular subject.

Such amending Ordinances and Ordinances cognate to the subject of the principal Ordinance having been printed in small type under the principal Ordinance, their numbers and titles only are given where they would ordinarily appear in chronological sequence, with a reference to the principal Ordinance in which they are incorporated or under which they are printed in their entirety and to the pages where they will be found.

We have omitted all Ordinances of a purely personal character: *e.g.*, the several Naturalization Ordinances prior to Ordinance No. 21 of 1890, Ordinances relating to Supply and the like, and Ordinances which have expired by effluxion of time.

Sir Bruce Burnside, late Chief Justice of Ceylon, has undertaken the preparation of an Index to the present edition of Legislative Enactments.

HERBERT WHITE.
HERMANN A. LOOS.

Colombo, August 31, 1900.

Digitized by Google

Digitized by Google

CONTENTS.

PROCLAMATIONS, REGULATIONS, AND ORDINANCES CONTAINED IN THIS VOLUME.

		Page
Capitulation of Colombo by the Portuguese to the Dutch	...	1
Capitulation of Colombo by the Dutch to the English	...	7
Tésawaḷamai	... ...	12
No. 18 of 1806 ...	*Regulation to preserve the Thesavalamai* ...	43
No. 4 of 1895 ...	*Ordinance relating to the publication of intended sales or other alienations of Immovable Property affected by the Thesavalamai*	43
Sept. 23, 1799 ...	Proclamation providing for the temporary administration of Justice and Police in Ceylon ...	44
Aug. 5, 1806 ...	Extract from Minutes of Council containing the Code of the Mohammedan Laws of Inheritance	45
No. 8 of 1886 ..	*Ordinance to provide for the registration of Mohammedan Marriages*	55
No. 18 of 1806 ...	Regulation to preserve the Thésavaḷamai ...	60
No. 3 of 1811 ...	Regulation for the protection of the Pearl Banks of Ceylon	60
Feb. 11, 1815 ...	Proclamation declaring certain Korales to be integral parts of the British Possessions ...	61
March 2, 1815 ...	Official Bulletin containing the official declaration of the settlement of the Kandyan Provinces ...	61
Nov. 21, 1818 ...	Proclamation for the control and government of the Kandyan Provinces	65
Sept. 18, 1819 ...	Proclamation for the registration of Temple Lands in the Kandyan Provinces	69
July 14, 1821 ...	Proclamation to limit the right to re-purchase Lands sold in the Kandyan Provinces ...	70
May 21, 1822 ...	Proclamation to enforce the registration of Temple Lands in the Kandyan Provinces ...	71
No. 15 of 1823 ...	Regulation for making a general provision in respect to Property found	72
Jan. 14, 1826 ...	Proclamation declaring what Lands belonging to Chiefs or Headmen shall be exempt from Tax or Duty	72
April 12, 1832 ...	Order in Council relating to Tenure of Service ...	74
	Charter of 1833	79

Digitized by Google

No.	ORDINANCES.	Page
5 of 1839	... Regulating the printing and publishing of Newspapers	101
4 of 1840	... Relating to the Transport required for Her Majesty's Forces and their Baggage ...	105
7 of 1840	... For the prevention of Frauds and Perjuries ...	108
	17 of 1852	112
	5 of 1875	114
	21 of 1887	114
12 of 1840	... To prevent Encroachments upon Crown Lands ...	115
	Order in Council, August 11, 1841 ...	118
	9 of 1841	118
4 of 1841	... Relating to Vagrants	119
	7 of 1889	122
9 of 1841	... Amending Ordinance No. 12 of 1840 ...	122
11 of 1842	... Providing for a Church in Kandy ...	122
14 of 1843	... For the recovery of Crown Debts ...	129
18 of 1843	... Declaring the possession of certain Nets and Dredges illegal	131
1 of 1844	... Relating to the Boundaries of Lands ...	132
8 of 1844	... For the suppression of Lotteries ...	139
10 of 1844	... Relating to the distillation and sale of Arrack, Rum, and Toddy	141
	13 of 1891	158
	9 of 1892	165
20 of 1844	... For the abolition of Slavery	166
21 of 1844	... Relating to Wills and the disposal of Landed Property	167
13 of 1845	... To regulate the affairs of the Presbyterian Church in Kandy	170
12 of 1846	... To regulate the affairs of the Episcopal Churches	176
	30 of 1890	183
3 of 1847	... Indian Cooly Emigration	184
	4 of 1882	186
12 of 1848	... Relating to Advocates and Proctors ...	187
18 of 1848	... Concerning the validity of Crown Grants ...	189
1 of 1852	... For shortening the Language used in Ordinances...	191
3 of 1852	... On Service Parveny Lands	192
5 of 1852	... Law of England to be observed in Maritime and Mercantile Contracts	193
17 of 1852	... Relating to the execution of Deeds ...	195
3 of 1853	... To dispense with Warrants for acting appointments	195
7 of 1853	... On Insolvent Estates	196
	24 of 1884	251

Digitized by Google

No.		*Page*
10 of 1856	... On Temple Lands in the Kandyan Provinces ...	252
18 of 1856	... Relating to Carts	261
12 of 1859	... On the Ceylon Savings Bank	262
	12 of 1892	267
	7 of 1895	269
1 of 1860	... Relating to Passenger Vessels in the Gulf of Mannar and Palk's Straits	270
3 of 1861	... On Volunteer Corps	273
	8 of 1881	280
	9 of 1881	280
	7 of 1884	281
	11 of 1889	282
	17 of 1890	283
	2 of 1892	284
	3 of 1899	284
4 of 1861	... On Joint Stock Companies	288
	4 of 1888	323
	6 of 1888	324
	3 of 1893	327
	2 of 1897	331
5 of 1861	... Relating to Wrecks and Salvage ...	357
	4 of 1862	364
	6 of 1899	365
10 of 1861	... Relating to Public Thoroughfares ...	369
	31 of 1884	394
	18 of 1885	399
1 of 1862	... For vesting Lands in the Admiralty ...	400
4 of 1862	... On Wrecks	402
7 of 1862	... For the prevention of Cruelty to Animals ...	402
9 of 1862	... Restricting the use of the Galle Face Burial Ground	403
15 of 1862	... For the suppression of Nuisances ...	404
7 of 1863	... On Merchant Shipping	410
	3 of 1884	438
10 of 1863	... On the partition of Lands	439
	10 of 1897	445
5 of 1864	... To regulate the Temporal Affairs of Churches ...	446
12 of 1864	... Relating to the production in Evidence of Copies of Public Documents	450
13 of 1864	... On the sale of Bread	451
4 of 1865	... For the regulation of the Loan Board ...	453
6 of 1865	... On the Duties of Masters Attendant ...	458
	6 of 1880	467
	4 of 1899	469
	4 of 1900	472
7 of 1865	... To fix the age of Majority	479

Digitized by Google

No.		Page
11 of 1865	... On Labourers and Contracts for Hire and Service ...	479
	13 of 1889	488
	7 of 1890	495
16 of 1865	... For the regulation of the Police Force ...	495
	7 of 1866	517
	5 of 1867	518
	16 of 1867	519
	19 of 1871	520
	6 of 1873	520
	3 of 1875	521
	1 of 1878	522
	7 of 1880	522
	13 of 1884	523
	11 of 1886	523
20 of 1865	... For the protection of the Seashore ...	524
22 of 1865	... Relating to the Nuwara Eliya Parsonage ...	525
	31 of 1890	526
24 of 1865	... To authorize the shooting of Cattle on the Railway	527
4 of 1866	... For the production of Title Deeds ...	527
6 of 1866	... For the registration of Deeds	529
	15 of 1867	531
7 of 1866	... Relating to the Police Force	532
8 of 1866	... For the control of Contagious Diseases ...	532
	3 of 1897	534
15 of 1866	... On Arbitration and Awards	538
19 of 1866	... For the protection of Fish	541
	13 of 1887	542
21 of 1866	... Relating to the Law of Partnership ...	542
22 of 1866	... To extend the Law of England to all Commercial Matters	543
4 of 1867	... Relating to Fiscals	544
	10 of 1867	552
5 of 1867	... Relating to Police Assessment	553
7 of 1867	... To protect Naval Stores in this Island ...	553
8 of 1867	... To protect Government Property in the charge of Pioneers	554
9 of 1867	... Relating to Joint Stock Companies ...	556
10 of 1867	... Relating to Fiscals	556
15 of 1867	... For the registration of Deeds	556
16 of 1867	... On certain Official Designations	556
20 of 1867	... To declare certain Marriages valid ...	557
1 of 1869	... For the supply of Gas	570
	3 of 1871	576
7 of 1869	... On Official Oaths	579
15 of 1869	... Relating to the Great Basses Lighthouse ...	580

Digitized by Google

No.		Page
17 of 1869	... For the regulation of Customs	581
	1 of 1871	617
	1 of 1875	619
	12 of 1884	619
	11 of 1891	620
	17 of 1892	621
	20 of 1892	622
	4 of 1894	623
	18 of 1896	624
	22 of 1896	624
	7 of 1898	625
	20 of 1898	626
19 of 1869	... On Firearms	636°
1 of 1870	... Relating to the Civil Establishments ...	637
	8 of 1872	647
	14 of 1881	648
3 of 1870	... For the registration of Kandyan Marriages ...	649
	9 of 1870	660
	10 of 1892	661
4 of 1870	... For the commutation of Service Tenures ...	662
9 of 1870	... Relating to Kandyan Marriages in the Mannar District	670
1 of 1871	... To provide for the issue of Warehouse Warrants	670
3 of 1871	... For regulating measures used in sales of Gas ...	670
7 of 1871	... To amend the Law of Property and to relieve Trustees	670
8 of 1871	... To amend the Law of Mortgage and Hypothec ...	673
	21 of 1871	675
19 of 1871	... For the reduction of Police Rates ...	676
21 of 1871	... To amend the Law of Mortgage and Hypothec ...	676
22 of 1871	... On Prescription	676
28 of 1871	... For the registration of Domestic Servants ...	680
8 of 1872	... To amend the Law relating to Civil Establishments	685
9 of 1872	... To authorize the appointment of Commissioners	685
1 of 1873	... On Lunacy	686
	3 of 1882	691
	10 of 1889	691
5 of 1873	... On Tramways	692
6 of 1873	... Relating to Public Defaulters	698
11 of 1873	... Relating to the Colombo Museum ...	698
21 of 1873	... To provide for the collection of the Plumbago Royalty	700
	22 of 1877	701
1 of 1874	... To control recruiting for Foreign States ...	702
1 of 1875	... Relating to Warehouse Warrants ...	702
3 of 1875	... To amend the Law in respect of Police Assessment	703

Digitized by Google

No.		*Page*
5 of 1875	... To amend Ordinance No. 17 of 1852, relating to the validity of certain Deeds	703
6 of 1875	... For the improvement of Colombo Harbour ...	703
1 of 1876	... For the improvement of Colombo Harbour ...	704
	1 of 1881	708
3 of 1876	... To provide for the acquisition of Land for Public Purposes	708
	6 of 1877	717
4 of 1876	... To declare valid the registration of certain Births and Deaths	718
6 of 1876	... To regulate the sale of Poisons	719
8 of 1876	... Relating to Weights and Measures ...	721
	14 of 1878	726
9 of 1876	... Relating to Cattle Trespass	727
11 of 1876	... Regulating the entail and settlement of Immovable Property	732
15 of 1876	... On Matrimonial Rights	735
2 of 1877	... Relating to Notaries	742
	10 of 1890	757
5 of 1877	... Relating to the registration of Titles to Land ...	757
	4 of 1889	773
	14 of 1891	782
6 of 1877	... To amend "The Land Acquisition Ordinance, 1876"	791
8 of 1877	... Relating to the Matale Railway	791
	12 of 1877	793
10 of 1877	... Relating to Extradition	794
12 of 1877	... To amend "The Matale Railway Ordinance, 1877"	795
14 of 1877	... Relating to the Sailors' Home	796
16 of 1877	... For the regulation of Prisons	799
	24 of 1890	815
22 of 1877	... To amend "The Plumbago Ordinance," No. 21 of 1873	817
1 of 1878	... Declaring the Powers of Police Assessors under Ordinance No. 7 of 1866	817
9 of 1878	... Relating to the Nanu-oya Railway ...	817
	7 of 1888	820
14 of 1878	... To amend "The Weights and Measures Ordinance, 1876"	821
7 of 1879	... Relating to the Colombo Waterworks ...	821
9 of 1879	... To declare valid the registration of certain Marriages, Births, and Deaths ...	824

Digitized by Google

INDEX TO TITLES.

	Page
Abolition of slavery	166
Acquisition of land for public purposes	708
Acting appointments	195
Administration of justice (Proclamation)	44
Admiralty lands	400
Advocates and proctors	187
Animals, cruelty to	402
Arbitration	538
Arrack, rum, and toddy	141
Baggage of troops, transport of	105
Bankruptcy	196
Births, validity of registration of certain	718
Boundaries of lands	132
Bread, sale and adulteration of	451
Burial ground, Galle Face	403
Capitulation by the Dutch to the English	7
Capitulation by the Portuguese to the Dutch	1
Carts, leaving on road	261
Cattle trespass	727
Charter of 1833	79
Churches, episcopal	176
Churches, temporal affairs of	446
Civil establishments	637
Colombo waterworks	821
Commissions of inquiry	685
Companies, joint stock	288
Contagious diseases	532
Contracts for hire and service	479
Copies of public documents	450
Crown debts, recovery of	129
Cruelty to animals	402
Customs	581
Deaths, validity of registration of certain	718
Debts, recovery of Crown	129
Deeds, execution of	112
Deeds, production of	527
Deeds, registration of	529

Digitized by Google

	Page
Deeds, validity of	114, 703
Diseases, contagious	532
Documents, copies of public	450
Domestic servants, registration of	680
Emigration of Indian labourers	184
Encroachment on Crown lands	115
England, law of, in commercial matters	543
England, law of, in maritime and mercantile contracts ...	193
Entail and settlement	732
Episcopal churches	176
Execution of deeds	112
Extradition	794
Firearms	636
Fiscals	544
Fish, protection of	541
Frauds and perjuries	108
Galle Face burial ground	403
Gas	570
Government property, protection of	554
Great Basses lighthouse	580
Harbour, Colombo	703, 704
Insolvent estates	196
Irregular registration	824
Joint stock companies	288
Kandy, church in	122
Kandy (convention)	61
Kandy (invasion)	61
Kandy (insurrection)	65
Kandy, Presbyterian church in	170
Kandyan marriages	649
Land, acquisition of, for public purposes	708
Lands (Kandy)	69, 252
Lands (temple)	70, 252
Land, partition or sale of	439
Lands, boundaries of	132
Law of England in commercial matters	543
Law of England in maritime and mercantile contracts ...	193
Lighthouse on Great Basses Rock	580
Loan Board	453
Lotteries, suppression of	139
Lunacy	686
Majority, age of	479
Marriages, Kandyan	649

Digitized by Google

	Page
Marriages, validity of certain	557
Masters Attendant	458
Matale railway	791
Matrimonial rights	735
Measures and weights	721
Merchant shipping	410
Mohammedan law	45
Mortgage and hypothec	673
Museum	698
Nanu-oya railway	817
Naval stores	553
Nets, illegality of certain	131
Newspapers, publishing of	101
Notaries	742
Nuisances	404
Nuwara Eliya parsonage	525
Oaths, official	579
Official designations, change of certain	556
Ordinances, shortening language in	191
Partition of land	439
Partnership, law relating to	542
Passenger vessels	270
Pearl banks	60
Perjuries, frauds and	108
Plumbago royalty	700
Poisons	719
Police	495
Police assessors	817
Presbyterian church in Kandy	170
Prescription of actions	676
Prisons	799
Proctors and advocates	187
Property found	72
Protection of Government property	554
Public thoroughfares	369
Railway, Matale	791
Railway, Nanu-oya	817
Recruiting for foreign States	702
Registration, irregular	824
Registration of deeds	529
Registration of domestic servants	680
Registration of titles to land	757
Rum, arrack, and toddy	141
Sailors' Home	797
Sales of land (Kandy)	70

Digitized by Google

	Page
Salvage, wrecks and	357
Savings bank	262
Seashore, protection of	524
Servants, domestic registration of	680
Service parveny lands	192
Service tenures	662
Settlement and entail	732
Slavery, abolition of	166
Stones, removal of, from seashore	524
Taxes, exemption of chiefs' lands from	72
Temple lands, Kandy, registration of ...	69, 71, 252
Temporal affairs of churches	446
Tenure by service	74
Tésawalamai	12
Thoroughfares, public	369
Titles to land, registration of	757
Toddy, arrack, and rum	141
Tramways	692
Transport of baggage of troops	105
Trespass of cattle	727
Trustees	670
Vagrants	119
Validity of Crown grants	189
Validity of registration of certain births and deaths ...	718
Validity of certain marriages	557
Validity of deeds	114
Volunteer corps	273
Warehouse warrants	617
Warrants not necessary for acting appointments	195
Waterworks, Colombo	821
Weights and measures	721
Wills and testamentary dispositions	167
Wrecks and salvage	357

Digitized by Google

LEGISLATIVE ENACTMENTS.

VOLUME I.

Digitized by Google

LEGISLATIVE ENACTMENTS OF CEYLON.

VOLUME I.

CAPITULATION OF COLOMBO

BY

THE PORTUGUESE TO THE DUTCH.

Articles proposed for the Cessation of Hostilities by the Portuguese to the Dutch.

(Extracted from the " History of Ceylon," by the Rev. Philippus Baldæus, Minister of the Gospel in the Expedition.)

ON the 11th May, 1656, about 8 o'clock in the morning, the Deputies of the Portuguese, named Laurenço Fereira de Britto, late Capiteyn Moor of Point de Galle; Hieronymo de Luçena Tavares, late Collector of the Revenue of Colombo; and Diego Leitaon de Souza, Private Secretary of this place, delivered the following Articles, which they requested may be granted and approved :

I.

We shall wait for provision and succour till the 20th of this month, and if they arrive by that time at the town of Bahia, and be strong enough to raise the siege of the town, all and every negotiation shall, in consequence, become of no effect; in the meantime there shall be a cessation of hostilities on either side, nor shall the least enmity be shown; provided, nevertheless, that no intercourse or communication shall be had but with persons passing and repassing, for which purpose hostages shall be given on both sides.

II.

In case of the surrender of the town, the churches and images shall be treated with all honour. The ecclesiastical persons and the clergy shall be permitted to take with them,

Digitized by Google

freely and without hindrance, all images they may wish and desire, together with the relics, consecrated vessels, silver lamps and ornaments, and all things appertaining to religious worship and to the churches, including the movable property which each of them has in his possession.

III.

The persons of the Generals Anthonio de Souza Continho and Francisco de Melo de Castro, and of the son of Anthonio de Souza Continho, shall be treated with due honour and respect; and they may freely depart from this town with all their movable property, gold, silver, rings, precious stones, &c., and with all their servants and Portuguese pages, as also their free servants and male and female slaves; and they may reside in their houses until embarkation, but under the protection of the General of our State, who shall provide them (at their expense) with the necessaries of life during the time of their residence here, and with necessary articles for their voyage, and procure also suitable ships for the safe conveyance of them and their families. That the ships shall be furnished with able sailors, arms, and ammunition of war, and everything requisite both for war as well as the sea; and this shall take place whenever the said Generals shall be in readiness to depart.

IV.

The Captain of the Town, the Captain Moor of the Camp, the Senior Merchant, Sergeant-Major, and the family of the Captain who died lately shall be treated in the same manner and fully as well as the two Generals.

V.

The Captain of the Infantry and those on half pay, and all other officers superior as well as inferior, shall be allowed to march out with their badges of office, colours flying, drums beating, matches lighted, and guns shotted, and with all their property; and they shall be provided with vessels to convey them to India or to the opposite coast; and the Governor of the Netherlands shall maintain them at this place with the funds that shall remain here for the King of Portugal, and if there be no funds the expenses shall devolve upon the Honourable Company until their departure. They shall also not be allowed to be molested either by water or by land.

VI.

In like manner, the *Ovidoor*, Judge, and other officers of the Chamber, the Senior Merchant, the Alcalde Moor, and the Superintendent of the King's effects shall enjoy the same liberty and privileges which have been required for the Captain of the Town and Field.

VII.

The Nobles, Chevaliers, and principal Burghers of the town, as also the married persons and other inhabitants, shall be allowed to enjoy the same privileges as shall be granted to the Town and its Captain; and in case any of them shall be desirous of remaining under the obedience of the Netherlands Government, they shall be allowed to have free

Digitized by Google

and undisturbed possession of their houses, goods, villages, and whatever else may belong to them, and shall be treated as natural-born Dutchmen. With respect to their religious worship, a church with priests shall be provided for them, who, together with the clergy, shall be allowed to exercise their religious services free and unmolested; and those who shall afterwards be desirous of proceeding to the opposite shore or coast of India shall be allowed to sell and alienate their movable and immovable property freely and unmolestedly, and vessels shall be provided for the free transport of themselves and their effects as stated before, excepting those who have ships of their own, and trade with them to various places, and who shall pay duty as they have hitherto done. Further, the inhabitants who remain at this place shall be at liberty to live and provide for themselves in the manner above recited.

VIII.

The merchants and strangers, Europeans as well as natives, who have arrived at this town with their vessels from various places, for the purpose of trading, shall be permitted to carry with them their movable goods, gold, silver, and merchandise which they have purchased, and especially the cinnamon of the King or of the town, as well that which has already been shipped as that which may yet be shipped on board; and they shall moreover be supported and a passage provided for them at their own expense; and in case they shall be in want of mariners, they shall be furnished with such.

IX.

In like manner, the coloured inhabitants of this place, both married and unmarried, and strangers of all classes, *shall* be allowed to enjoy the same privileges as have been asked for the Portuguese Burghers and married people.

X.

The Modliars, Aratchies, and Lascoreens, who have hitherto served the Portuguese, whether they have come to us from the service of the Netherlands Company or from that of his Majesty, shall be allowed to proceed (without any hindrance) to whatever place they please.

XI. AND XII.

Likewise, the crime committed by Simon Lopes de Basto, a Portuguese, who has served the Dutch for some time, shall be forgiven, and he shall be allowed to proceed in company with the Generals. The offences committed by Dutchmen who have taken up arms on our side shall not be imputed to them, but they shall be allowed freely to depart together with our soldiers.

XIII.

That all sick and wounded soldiers and married people shall be allowed to remain in the hospital until they be cured and restored to health, and that they be provided on their voyage (if it cannot be done at the expense of the King) at the expense of the Honourable Company.

Digitized by Google

XIV.

At the surrender of the town, and when the Dutch shall take possession thereof, the Honourable the Governor shall prevent any harm, violence, or disrespect being done or shown to the Generals and the principal persons. The soldiers and married persons with their wives and children shall in like manner be protected from molestation, and remain under the protection of the Governor, either within or without the town, in safety and security, so that they may not be attacked by the people of the King of Kandy.

(Signed) ANTHONIO DE SOUZA CONTINHO.

THE Answer of the Governor and Chief Officers of the Dutch Army given in the name of his Imperial Majesty of Ceylon and the High and Mighty Lords, the States General of the Free United Netherlands, the Honourable the Directors of theEast India Company,and the Honourable the Governor General Joan Matsuyker, and the Honourable Council of India, to the proposals and request of the Chief Commanders of the Fort of Colombo, made through the Deputies of their Council.

That the surrender shall be made before noon, and thereupon the privileges hereinafter mentioned shall be granted.

The clergy shall have all the privileges mentioned in the second Article, and until their departure two suitable places shall be provided for them.

As to the third Article, the Governor answers, that it is not possible, for certain reasons, to transport the Generals to Tutucoreen or Manaar at the present time, but that they shall be sent thither, or to Cochin, or Wingwella, on the first opportunity; but if they wish to go to the coast of Coromandel they shall be sent within fifteen days in the ships of the Company, and shall be allowed to carry with them their male and female slaves, as well as those of Mr. Christovan de Souza, and their servants; and it shall be left to their honour not to take away anything else. They shall also be at liberty to carry with them all their property, gold, silver, rings, and precious stones; and until their departure they may remain in their houses as required by the aforesaid Article.

The officers referred to in the fourth Article shall be treated and protected according to their dignity against all insult and molestation, and they shall be at liberty to take with them, from the port, all their gold and silver articles, money, linen, and wearing apparel, and as regards male and female slaves they shall be treated agreeably to their condition. By wearing apparel shall also be understood bedding, carpets, quilts, blankets, and curtains.

The Captains in command, and those on half pay, of the Infantry shall march out with their arms, and shall also proceed to the coast of Coromandel, and shall be treated according to their ranks. They may also take with them so

Digitized by Google

much of the goods and as many slaves and free servants as the Governor in his discretion shall be pleased to permit.

The Infantry shall march out with all their goods, with colours flying, matches lighted, guns shotted, and drums beating, and proceed to the Governor's house and there lay down their arms at the foot of the standard. They shall then be sent under proper treatment to Europe. Those who are married and their descendants by natives of India shall also proceed to the coast of Coromandel, and as long as they remain here they shall be maintained by the Honourable Company.

The officers alluded to in the sixth Article shall receive the same favours and liberties as are granted to other persons of distinction, and the Captain of the Town and the Senior Merchant shall be included among them.

All those who remain subject to the Dutch arms shall be treated with all kindness and courtesy, and they shall remain in the peaceable possession of their goods; but in the event of their departure at any time from this country their property shall be at the disposal and discretion of the Governor.

The respectable Burghers and married Portuguese, and their children, who do not wish to remain in this island, shall at their departure be treated in the same manner as the other officers; but the married people and those born in the island shall be treated at the discretion of the Governor. The European and native merchants and other foreign traders, who from time to time have settled at this place for the purpose of trading, shall proceed to the coast of Coromandel with the like assistance and liberty as are granted to other officers.

The Modliars, Aratchies, and Lascoreens, with their adherents, shall be treated with the same kindness as our own people.

All sick and wounded persons, soldiers, and married people who are in hospital or elsewhere undergoing medical treatment shall be allowed to remain there until they have recovered, and shall have all things demanded on their behalf.

All officers, married persons, privates, and unmarried ladies shall remain under the protection of the Governor without the least harm being done to them by any person.

It is further decided by the Governor that the ships and vessels which may arrive up to the thirtieth of this month for the succour of this Fort of Colombo shall be informed of the surrender of this town, and be requested to depart; and they shall be protected until they are out of sight of Colombo.

Thus done on Thursday, the 11th May, 1656.

ADRIAN VANDER MEYDE.
JAN VANDER LAAN.
PIETER DE BITTER.
EDWARD OOMS.
YSBRANDT GODSKENS.

Digitized by Google

ADRIAN VANDER MEYDE, Governor, on behalf of the Honourable the East India Company in the island of Ceylon, and the other Members of our Honourable Council:

Whereas the Deputies have, within the time above appointed, arrived with the resolution of the General Anthonio de Souza Continho and his Honourable Council, bringing the Capitulation duly approved of by them: We do therefore hereby promise fully and completely to fulfil the above Articles, and to afford such further assistance and protection as may lie in our power. The tokens whereof, We the above-named, as well as the said Deputies, have signed hereunder.

Given at the Dutch Camp at Colombo on the 12th May, 1656.

ADRIAN VANDER MEYDE.	ANTHONIO DE SOUZA CONTINHO.
J. VANDER LAAN.	FRANCISCO DE MELO DE CASTRO.
PIETER DE BITTER.	ANTHONIO DE SILVA.
EDWARD OOMS.	GASPER DE RONEA PEREIRA.
YSBR. GODSKENS.	LAURENCO FEREIRA DE BRITTO.
JOHANNES HARTMANN.	HIERONYMO DE LUCENA TAVARES.
	DIEGO LEITAON DE SOUZA.

Digitized by Google

CAPITULATION OF COLOMBO

BY

THE DUTCH TO THE ENGLISH.

Preliminary Article — JOHN GERARD VAN ANGELBEEK, Counsellor of India, Governor and Director of the Dutch Possessions in the Island of Ceylon, offers to deliver up to Colonel STEUART and Captain GARDNER, Commanding the English Troops, the Fortress of Colombo upon the following conditions at the expiration of three days.

Answer—Major PATRICK ALEXANDER AGNEW, Adjutant-General of the British Troops in the Island of Ceylon, by virtue of the powers delegated to him by Colonel JAMES STEUART, Commanding the British Army, and ALLAN HYDE GARDNER, Esquire, Captain of His Majesty's Ship *Heroine*, and Senior Officer of the Naval Force before Colombo, consents to admit of the Surrender of the Fort of Colombo, on the under-mentioned terms, provided the Capitulation is signed this evening, and the Fort delivered to the British Troops to-morrow morning at ten o'clock in the manner stipulated in the following articles.

Article 1st — In this Capitulation shall be included the Town of Galle and the Fort of Caliture, with all their Dependencies, Lands, Domains, Sovereign rights of the Hon'ble Dutch East India Company, and the Governor shall issue orders to the Commandeur and Council of Galle, and the Commandant of Caliture, for the actual surrender, according to the contents of this Capitulation.

Answer—Granted.

Article 2nd — The Fort, with all its Dependencies, Artillery, Ammunition, Stores, Provisions, and all other effects belonging to the Company, with the Plans and Papers relative to the Fortifications, shall *bonâ fide* be delivered up, without concealing or keeping back anything.

Answer—Granted. The Surveys of the Districts of the Island of Ceylon, and its Coasts, with all other Public Plans, to be included.

Article 3rd — And as the Books at Colombo as well as Galle are two years in arrear, the delivery shall take place according to the balances now actually existing, and a reasonable time be allotted to the Commercial Servants here and at Galle, with their Assistants, to finish the Books, and they shall during that time receive the pay and emoluments fixed for their services. As the Head Smith, Cooper, House Carpenters, the Overseer

Answer—One year, or eighteen months if absolutely necessary, shall be allowed for the purpose of arranging the Books, during which time a reasonable salary shall be paid to the Servants of the Dutch Company necessarily employed in this Department. The accounts of the Artizans shall be examined and liquidated.

Digitized by Google

of the Arsenal, and the Brick-maker receive every thing by indent, their accounts shall be examined and liquidated by our Accountant, also paid by the English; on the other hand, the above-mentioned Artificers and Overseers are responsible for the articles issued to them.

Article 4th — All *Public Papers* shall also be faithfully delivered over, but attested copies of all the Public and Secret Consultations held during his short Government, and which he has not had an opportunity of forwarding to Holland or Batavia, shall be given to Governor Van Angelbeek to enable him to answer for his conduct in the management of affairs.

Answer—Granted.

Article 5th—The Returns and Merchandise of the Company which are partly laden on board the Ships *Berlican* and *Eensgezindheid* now lying in the roads, and partly stored in private houses, as well as those at Galle, shall also be faithfully delivered by the Commissaries, who shall be appointed by the Governor, to Major Agnew, who is authorized by the Government of Madras to receive them.

Answer—All Merchandise, Stores, and public property of every description, either laden on board the Ships now anchored under the guns of the Fort, deposited in public stores, or distributed in the houses of individuals, as well as all public property placed in a similar manner at Galle, Caliture, or any other part of the Island of Ceylon depending on these Governments, shall be delivered by the Commissaries, who shall be named by the Governor Van Angelbeek, to Major Agnew, the Agent appointed by the Government of Madras to receive them, in three weeks from this date.

Article 6th—But as the Company has of late years borrowed money upon interest of their Servants and Inhabitants, and when in want of ready money have issued Krediet Brieven (*Promissory Notes*) to the amount of about five Lacks of Rix-dollars, of which however at least an half is in the Treasury, with a promise to realize the same, and as several servants have their Pay and Emoluments in the hands of the Company, for which they have no other security than the Effects of the Company, the above-mentioned Debts of the Company shall be paid out of them, and the Krediet Brievens *discharged*, which can occasion the less consideration as the Returns alone, taking the fine Cinnamon at only three Rupees a pound, the Pepper at 100 Rupees per Candy, the Cardamoms at one Rupee a pound, and the piece Goods and other Merchandise at the Invoice price, will amount to about twenty-five Lacks of Rupees, and all the Debts, Pay, and Notes in circulation not above six Lacks. The Copper Doodies shall continue current for One Stuiver.

Answer—As Mr. Van Angelbeek has assured the Officers Commanding His Majesty's Naval and Land Forces before Colombo, that a refusal to comply with the demand contained in the 6th Article will be attended with the total ruin of the Colony, they consent to the following arrangements regarding the paper currency of this Island, provided the public property of the Dutch Company is found to be conformable to the statement contained in this Article.

The English Government of Ceylon will take up the Promissory Notes of the Dutch Government which are still in circulation, provided they do not exceed the sum of Fifty thousand Pounds Sterling, and issue Certificates for the Amount bearing an Interest of three per cent. per annum payable half-yearly, which Certificates shall be in force so long as the Districts of Ceylon extending from Matura to Chilaw shall be in possession of the English and no longer. Should these Districts be restored to the Dutch the responsibility of payment will necessarily revert to them, in which event the original Notes of the Dutch Government shall be restored to the proprietors in exchange for the Certificates granted by the British Government.

Digitized by Google

The Officers Commanding the British Forces are not authorized to provide for the payment of the arrears due to the Servants of the Company—this must be left to the future determination of His Britannic Majesty.

The Copper coin of the Island must find its own value in the course of exchange.

Article 7th—All private property, without exception, shall be secured to the proprietors.

Answer—Granted, with the exception of Military and Naval Stores, which in every instance must be deemed public property.

Article 8th—In which is expressly included the Funds of the Orphan House or the College for the administration of the effects of infant Children, and of the Committee for managing the Poor funds, as also the two Ships now in the roads, *Berlican* and *Eensgezindheid*, which belong to individuals in Holland, and are chartered by the Company, as shall be proved.

Answer—Granted, with the exception of the Ships, which must be deemed public property.

Article 9th—The garrison shall march out with the honours of War, pile their Arms by command of their own Officers on the Esplanade, and again return to their Barracks—the Officers to keep their side Arms; the Clevangs and Creeses of the Non-Commissioned Officers and Private Malays to be locked up in chests, and after their departure, on being set on shore, to be returned to them.

Answer—Granted.

Article 10th—The European Officers, Non-Commissioned Officers, and Privates of the Battalion of Dutch Troops, and the Detachment of the Wurtemburg Regiment doing duty with it, as well as the Artillery and Seamen, shall be transported in English Ships from hence to Europe or Batavia, according to their choice, with permission to carry along with them their women, children, necessary servants, and baggage—none of the Officers however shall be removed from hence against their will, as many of them are married and have their property here, and in case of any of them wishing to depart time shall be allowed them to arrange their affairs to go where they please upon their Parole of Honour, not to serve in this War against England until they shall be exchanged.

Answer—The European Officers, Non-Commissioned Officers, and Privates, as well of the Dutch Battalion as of the Regiment of Wurtemburg, the Artillery, Engineers, and Marine, must be considered as Prisoners of War, and as such they will be treated with that attention which the British Government has ever shown to those whom the fortune of War has placed in its power. The whole shall be sent to Madras.

Such of the Officers as desire to return to Ceylon, for the reasons mentioned in this Article, will have permission to do so on giving their Parole of Honour not to serve during the present War against the English. Those who may desire to return to Europe shall be permitted to do so on the same conditions, but without any claim on the British Government for Pay or Allowances of any description.

Article 11th—As there are some Native born French in Garrison they shall be transported to the French Islands if they choose it.

Answer—The French of the Garrison will be considered as Prisoners of War, and sent to Madras.

C

39-00
Digitized by Google

Article 12th—The Malays that do not choose to remain here shall be transported in English Ships, with their women and children, to the Island of Java.

Answer—The Malay Troops shall be sent from hence with their wives and children to Tutucorin, and from thence by easy marches to Madras. They shall be subsisted while they remain Prisoners, and if not taken into the British Service shall at a convenient time be sent to the Island of Java, at the expense of the British Government.

Article 13th—These transportations shall take place at the expense of the English, and until that time the Military Europeans as well as Malays shall continue to enjoy their Pay and Emoluments as was customary in the Company's Service. —None of the Military shall be forced, or even persuaded, to enter into the service of His Majesty or the Hon'ble English Company.

Answer—The Military Officers, European and Native, shall receive the Pay allowed to them in the Dutch Service. The Non-Commissioned and Privates will be subsisted according to the Regulations of the British Government for Prisoners of War. None shall be forced to enter the service of Great Britain against their consent.

Article 14th—The Sepoys and Moormen in the service shall have liberty to return to their birthplace.

Answer—Granted.

Article 15th—The Cingalese Lascars, being soldiers on account of their castes, and the Burghers and Civil Servants by the laws of the Colony being obliged to take up arms for its defence, it shall not tend to prejudice those people.

Answer—Granted.

Article 16th—Governor VAN ANGELBEEK, the Commandeur of Galle FRETZ, and all the other Political or Commercial Servants, not required in their official capacities for the purpose mentioned in Art. 3rd, shall have permission to remain as private individuals at Colombo, Galle, or other place on the Island, or to betake themselves elsewhere. In the first case a reasonable means of subsistence shall be allowed to each according to his rank; in the last they shall be permitted to carry their effects along with them without payment of any tax or duty whatever, but then all allowances to cease.

Answer—Granted, with this exception, that as the Commanders of the British Forces before Colombo are not authorized to grant the subsistence required, this subject must be referred to the decision of the Government of Fort St. George.

Article 17th—The respective vendue Masters here and at Galle shall be maintained during the collection of the outstanding balances, in right of the preference granted those people by the Company.

Answer—Granted, for all balance outstanding.

Article 18th—The Clergy and other Ecclesiastical Servants shall continue in their functions among the public of the reformed faith in the enjoyment of the same Pay and Emoluments as they had from the Company.

Answer—Granted, under the same exception annexed to the 16th Article.

Article 19th—The Citizens and other Inhabitants shall be allowed to follow their occupations and enjoy all the liberties and privileges of the subjects of His Majesty.

Answer—Granted.

Digitized by Google

Article 20th — The Native Servants, those of the Gate and other departments, as well as of the Mahabadda, shall be continued in their employs during their good behaviour.

Answer—Granted, subject to such Regulations as the British Government may hereafter judge necessary.

Article 21st—The Eastern Princes, Tommogoms, and other men of rank here as State Prisoners, and who receive a Monthly subsistence, shall continue to receive it according to the list which shall be delivered.

Answer—Granted, while they remain in Ceylon.

Article 22nd—All Notarial papers, such as Wills, Bills of Purchase and Sale, Obligations, Security Bonds, &c., shall continue in force, and the Registers of them be preserved by Commissaries appointed on both sides for that purpose.

Answer—Granted.

Article 23rd—All Civil suits depending in the Council of Justice shall be decided by the same Council according to our Laws.

Answer—Granted, but they must be decided in twelve months from this date.

Article 24th—The Deserters who are here shall be pardoned.

Answer — All Deserters from the English Service must be unconditionally given up.

Article 25th—The above Articles of Capitulation shall be faithfully fulfilled and confirmed by the Signature of the Officers Commanding His Majesty's Sea and Land Forces, Colonel JAMES STEUART and Captain ALLAN HYDE GARDNER; and in case of anything appearing obscure, it shall be faithfully cleared up, and if any doubt should arise it shall be construed for the benefit of the besieged.

Answer—Granted.

Article 26th (by Major AGNEW)—The Garrison shall march out agreeable to the 9th Article at ten o'clock to-morrow morning, when the Gate of Delft shall be delivered to a Detachment of the British Troops. The Governor VAN ANGELBEEK will order an Officer to point out the Powder Magazine, Posts, and Public Stores, that Guards may be placed for their security and the preservation of order in the Garrison.

Done in Colombo this 15th day of February, 1796.

J. G. VAN ANGELBEEK.
P. A. AGNEW,
Adjutant-General.

Approved and confirmed,
J. STEUART.
A. H. GARDNER.

Digitized by Google

THE TÉSAWALAMAI,

OR,

THE LAWS AND CUSTOMS OF THE MALABARS OF JAFFNA.

(Promulgated by the Dutch Government of Ceylon in the year 1707, and referred to in the Government Regulation No. 18 of December 9, 1806.)

(*See Ordinance No. 4 of 1895.*)

Description of the Jaffnapatam Ancient Customs and Rules, according to which persons of this Province are in the habit of recovering in Civil Matters, such as Inheritances, Adoptions, Gifts, Seizure, Purchase and Sale, Pledging and Redemption of Land and Gardens, &c., drawn up and collected by me, the undersigned, pursuant to the Order of Our Honourable Commandeur the Governor of Ceylon, Mr. CORNELIS JOAN SIMONS, *and the Council at Colombo, by Letter dated 14th August, 1706, directed hither, according to the experience which I, in the period of seven and thirty years that I have been passing here, of which said period most has been in this Province, have acquired.*

SECTION I.

OF INHERITANCES AND SUCCESSION TO PROPERTY.

1. Different kinds of property.
2. Of dowry.
3–6. Of the marriage of daughters and the dowry given with them.
7. Of the marriage of sons and their portions.
8. Of resignation of property.
9. Of succession to property where children and their mother are left.
10. Property how to be divided where the mother marries again.
11. Of succession to property where children and their father are left.
12. Of the division of property where orphan children are left.
13. Division of property where there are half-brothers and sisters.
14. Division of property where there is issue of both marriages.
15. Division of property where two persons, each being the sole child of their respective parents, die without issue.
16. Property how to be divided where it has been improved.
17. How where a Pagan marries a Christian woman.
18. How where two Pagans intermarry.

Digitized by Google

I WILL commence by stating that a man and woman being married all descending heirs must proceed from them, and from them likewise can be indicated the inheritance in the ascending relation.

Different Kinds of Property.

1 From ancient times all the goods brought together in marriage by such husband and wife have from the beginning been distinguished by the denomination of *modesium*, or hereditary property, when brought by the husband, and when brought by the wife were denominated in the Tamil language *chidenam*, or by us *dowry;* the profits during marriage are denominated *tediatêtam*, or *acquisition*. On the death of the father all the goods brought in marriage by him should be inherited by the son or sons, and when a daughter or daughters married they should each receive dowry, or *chidenam*, from their mother's property, so that invariably the husband's property always remains with the male heirs, and the wife's property with the female heirs, but the acquisition or *tediatêtam* should be divided among the sons and daughters alike; the sons, however, must always permit that any increase thereto should fall to the daughters' share.

Of Dowry.

2 But in process of time, and in consequence of several changes of Government, particularly those in the times of the Portuguese (when the Government was placed by order of the King of Portugal in the hands of Don Philip Mascarenha), several alterations were gradually made in those customs and usages, according to the testimony of the oldest Mutaliyárs, so that, at present, whenever a husband and wife give a daughter or daughters in marriage the dowry is taken indiscriminately, either from the husband's or wife's property, or from the *acquisition*, in such manner as they think proper, that is to say, by parts and pieces, for there is scarcely any person who can say that he possesses the sole property of entire pieces of ground, gardens, companies of slaves, &c., for it will generally be found that he is actual owner of not more than the half or one-sixteenth part or less of the property.

Of the Marriage of Daughters and the Dowry given with them.

3 The nearest relations, either on the father's or mother's side, from a particular regard to the bride, in order that such bride may make a better marriage, often enlarge the dowry by adding some of their own property to it: and such a present should be particularly described in the *doty*, *marriage act*, or *ola*, which must specify by whom the present or gift is made, and the donor must also sign the act or *ola;* but such a donation or gift is voluntary. When the act of *doty* is executed it is presumed that it is done without fraud, but the donor does not point out therein what his share is of the pieces of ground, gardens, or slaves which he gives by pieces to his daughter or daughters, but says

Digitized by Google

merely "such and such part of such a piece of ground;" so that, frequently, the receiver or bridegroom finds himself deceived in his expectations, which always causes differences and disputes, for many often expect to get a sixth part when they do not get more than one-sixteenth. For instance, a husband and wife having five children, viz., two sons and three daughters, and possessing a quarter or fourth part of a ground called *Várakkúli*, of which they give as a dowry to each of their daughters, when they marry, a fourth part of their (the husband's and wife's) share in the said ground, which together is three-fourths, and retain the other one-fourth for themselves as long as they live: but after their death the two sons come and take each the half, consequently the daughters have no more than one-sixteenth part each of the said ground, and the two sons each but one thirty-second part; and it is the same with the donations of gardens, slaves, &c., from which often disputes also arise. The daughters must content themselves with the dowry given them by the act or *doty ola*, and are not at liberty to make any further claim on the estate after the death of their parents, unless there be no more children, in which case the daughters succeed to the whole estate. And in case the new-married couple, to whom one or more pieces of the said gardens, slaves, &c., have been given in marriage, do not take possession thereof within ten years, they forfeit their claim thereto: for there has been of old, since the time of the Tamil kings, a proverb, *Oṭṭiyum chítaṉamum paṭṭiyáḷ*, that is, immediate possession must be taken of dowry and pawns. If this be not done, the lands, gardens, slaves, &c., again become a part of the common estate in the same manner as if they had never been given to the young married couple, unless they can produce an act of their parents concerning their delay in taking such possession.

4 If a father or mother gives as a dowry to their daughter or daughters a piece of land or garden which is mortgaged for a certain sum of money, and say in the *doty ola*, "*a piece of land called Kaḷuvaṉpaṉku, which is mortgaged to Kantar Pútar for sixty fanams, but which the bridegroom and his bride must redeem for that money*," and if they are unable to do it, and the mortgagee does not wish to retain any longer the mortgage for the money lent by him, the parents themselves are obliged to redeem it; and notwithstanding (although it be fifty years afterwards) the said mortgaged land or garden devolves again to the child to whom it was originally donated by the *doty ola*, provided the money for which it had been mortgaged is paid by such a child.

5 If one or more pieces of land, garden, or slaves, &c., are given as a marriage gift, respecting which at the expiration of some years a lawsuit arises, and the young couple lose the same by the suit, the parents who gave the same (and after their decease the sons) are obliged to make good the loss of the land, garden, or slaves, &c., for a well-drawn up and executed *doty ola* must take effect, because it is by this means that most of the girls obtain husbands, as it is

Digitized by Google

not for the girls but for the property that most of the men marry; therefore, the dowry they lose in the manner above stated must be made good to them, either in kind or with the value thereof in money. Should it happen that after the marriage of the daughter or daughters the parents prosper considerably, the daughters are at liberty to induce their parents to increase the *doty*, which the parents have an undoubted right to do.

If all the daughters are married in the manner above stated, and each has received the dowry then given by their parents, and if one or more of them dies without issue, in such case the property indisputably devolves to the other sisters, their daughters, and granddaughters; but if there should be none of them in existence, the property in such case falls in succession to the brothers, their sons, and grandsons, if any; if not, the property reverts to the parents, if alive; and if not, the father's *modesium*, or hereditary property, and the half of the *tediatêtam*, or acquired property (after deducting therefrom the half of the debts), devolves first to his brother or brothers, then to their sons and grandsons; and the mother's *chidenam*, or dowry, with the other half of the acquired property, after deducting therefrom also the remaining half of the debts, devolves to her sister or sisters, their daughters, or granddaughters, *ad infinitum*.

6 Although it has been stated that where a sister dies without issue the dowry obtained by her from her parents devolves to her other sister or sisters, yet it sometimes happens that her mother, having in the meantime become a widow and poor, requests the sister or sisters of the deceased to allow her to take possession of the property of her deceased daughter, and to keep the same as long as she lives, to which they sometimes agree, but are by no means bound to do it; but in order that they may not subject themselves to any loss, they ought to have the property described and registered, otherwise on the mother's death the son or sons will come and take possession of all that she has left.

Of the Marriage of Sons and their Portions.

7 Having pointed out the manner in which the daughters are given in marriage, and what becomes of their property when they die, I will now proceed to state what relates to the sons. So long as the parents live, the sons may not claim anything whatsoever; on the contrary, they are bound to bring into the common estate (and there to let remain) all that they have gained or earned during the whole time of their bachelorship, excepting wrought gold and silver ornaments for their bodies which have been worn by them, and which have either been acquired by themselves or given to them by their parents, and that until the parents die, even if the sons have married and quitted the paternal roof.*

So that when the parents die, the sons then *first* inherit the property left by their parents, which is called *modesium*,

* See Colebrooke's Hindu Law, Vol. III., p. 27.

Digitized by Google

or hereditary property; and if any of the sons die without leaving children or grandchildren, their property devolves in the like manner as is said with respect to the daughters' property, which devolves to the women as long as there are any. The property of the sons, therefore, devolves to the men, and in failure of them to the women; and although the parents do not leave anything, the sons are nevertheless bound to pay the debts contracted by their parents, and although the sons have not at the time the means of paying such debts* they nevertheless remain at all times accountable for the same; which usage is a hard measure though according to the laws of the country.

Of Resignation of Property.

8 †Should it happen that age renders the parents incapable of administering their own acquired property, the sons divide the same,‡ in order that they may maintain their parents with it, and it will be often found that sons know how to induce their parents to such a division or resignation of their property, with a promise of supporting them during the rest of their life; but should the sons not fulfil their promise, the parents are at liberty to resume the property which has been so divided among the sons, which is not done without a great deal of trouble and dispute. And the experience of many years has taught us that such parents (in order to revenge themselves on their sons) endeavour by unfair means to mortgage their property for the benefit of their married daughters or their children; and for this reason it has been provided by the *Commandeur* that such parents may not dispose of their property either by sale or mortgage without the special consent of the *Commandeur*, which is now become a law.

Of Succession to Property where Children and their Mother are left.

9 If the father dies first leaving one or more infant children, the whole of the property remains with the mother, provided she takes the child or children she has procreated by the deceased until such child or children (as far as relates to the daughters) marry; when the mother, on giving them in marriage, is obliged to give them a dowry, but the son or sons may not demand anything so long as the mother lives, in like manner as is above stated with respect to parents.

Property how to be divided where the Mother marries again.

10 Should, however, the mother marry again and have children by her second marriage, then she does with the daughters as is above stated with respect to parents. But it is to be understood that if she has daughters by her first husband she is obliged to give them, as well as the

* See Colebrooke's Hindu Law, Vol. I., pp. 273, 274, and the Note by Sir W. Jones.
† See Colebrooke's Hindu Law, Vol. III., pp. 23, 24.
‡ See Colebrooke's Hindu Law, Vol. III., pp. 38, 39.

Digitized by Google

daughters by her second husband, their dowries from her own *doty* property; and if the son or sons marry or wish to quit her, she is obliged to give them the hereditary property brought in marriage by their father and the half of the acquired property obtained by the first marriage, after deducting therefrom the dowry which may have been given to the daughters.

If the mother of whom we have just spoken also dies, the sons, both of the first and second marriage, succeed to the remaining property which the mother acquired by marriage; besides which such son or sons are entitled to the half of the gain acquired during the mother's marriage with his or their father, and which remained with the mother when he or she married, and provided that therefrom are also to be paid the debts contracted by her or their father when alive.

But if any part of that property is diminished or lessened during the second or last marriage, then the second husband, if he still be alive,—or if he be dead, his son or sons,—are obliged to make good the deficiency, either in kind or in money, in such manner as may be agreed upon.

On the other hand, the son or sons of the second marriage are entitled to the hereditary property brought in marriage by his or their father, and also to the property acquired during marriage after all the debts contracted by him shall have been paid from the same.

Of Succession to Property where Children and their Father are left.

11 *If the mother dies first, leaving a child or children, the father remains in the full possession of the estate so long as he does not marry again, and does with his child or children and with his estate in the like manner as is above stated with respect to the mother.*

If a father wishes to marry a second time, the mother-in-law or nearest relation generally takes the child or children (if they be still young) in order to bring them up; and in such case the father is obliged to give at the same time with his child or children the *whole* of the property brought in marriage by his deceased wife and the half of the property acquired during his first marriage. When those children are grown up and able to marry, that is to say, the daughters (if any there be), the father must go to the grandfather or grandmother with whom the children are, in order to marry them and to give them a dowry both from their deceased mother's marriage portion and from the acquired property, which, as before stated, had been given to the relations with the children, and from his own hereditary property.

This being done, and if anything remains of what had been given to the relations with the children as above stated, and if the son or sons have acquired a competent age to administer what remains, they then take and possess the same without dividing it until they marry, when they divide it equally among themselves, together with

Digitized by Google

the profits acquired thereon; but if they make a division immediately on taking possession of what remains, so that each possesses his share separately, then they are not obliged to share with each other what each has acquired.

But should there remain nothing of the mother's property and of the half of the acquired property during marriage, the sons, whether young men or married, must do as well as they can until their father dies; for these sons by the former marriage cannot claim anything from this their father.

If such a father has by his second wife a child or children, and among them a son or sons (for it is unnecessary to say anything further concerning daughters), and dies, his property which exists is divided into two equal shares, one of which the son or sons by the first wife take and the other the son or sons by the second wife, although there should be but one son of the first and five or six of the second. And what remains of the half of the acquired property during the first marriage must also devolve to the son or sons of that marriage; but if any part thereof has been diminished during the second marriage, then the sons of this marriage are obliged to make good the deficiency to the sons of the first marriage in the manner above stated, and the son or sons of the second marriage divide the property acquired during that marriage, and also the remaining part of that which has not been given as a dowry to the sisters (but not before their mother is dead); in which case the sons are obliged to pay all the debts contracted by the father during his marriage with their mother.

Of the Division of Property where Orphan Children are left.

12 If the father and mother die without being married more than once, and their surviving children are infants under age, then the relations of both sides assemble to consult to whose care the children are to be entrusted; and a person being chosen, the children are delivered to him together with the whole of the property left by the parents, which remains with such persons until they attain a competent age to marry; and when they are grown up it is to be supposed that it will be the turn of the eldest first to marry, when the friends must again assemble to consult what part of his or her parents' property shall be given to him or her as a dowry, with which he or she must be content. In order to understand the following observations better, we will limit the number of brothers and sisters remaining unmarried to *three*—that is to say, two brothers and one sister—which last, on account of some misfortune or other, remains unmarried. If the brothers (having attained in the meantime a competent age) marry, and if she desires that the remaining property of her parents shall be divided, the relations and possessors thereof may not refuse it; but the brothers must in such case allow their sister who remains unmarried to have a larger share. This, however, the brothers often oppose, particularly when there is but little, because when the unmarried sister dies the married one succeeds to all that the unmarried one was possessed of.

Digitized by Google

But should it happen that both the brothers after they have grown up and are married possess the before-mentioned property without having divided it, and that the unmarried sister receives nothing else besides what is necessary to provide herself with subsistence and clothing until her death, in such a case the whole of the property remains with the brothers, and the married sister has no right or claim thereto; and should it happen that the unmarried sister had allowed herself to be deflowered and thereby had a child, she (in order to bring it up decently) ought to agree with the brothers and sisters to divide the estate of their parents, in order to enable her to allot her child a certain portion thereof.

Division of Property where there are Half-Brothers and Sisters.

13 With respect to the succession of half-brothers and sisters, if a woman who has been married twice, and by the first husband has had a son and by the second a son and daughter, and these all survive their parents and act with their parents' estate as is above mentioned, and if the son of the second marriage dies without leaving a child or children, and the question is, Who shall inherit the deceased's estate?—(respecting which the principal Mutaliyárs and inhabitants have not agreed)—many are of opinion that the full-sister must be preferred above the half-brother, but this would be quite contrary to the old established laws. Therefore I agree in opinion with the greatest part of the inhabitants who have been consulted on the subject, that the half-brother, from the side he is brother—that is to say, from the mother's side—must succeed to the inheritance, and the sister, because there cannot be brothers from the father's side, must succeed to all that is come from the father's side, and the acquired property must be divided half and half between the half-brother and full-sister, provided that it has been acquired by means of the mutual property.

Division of Property where there is Issue of both Marriages.

14 If the husband has been married twice, and has by his first wife had a son and daughter, and only one daughter by his second wife, and if the daughters have been married and received a dowry, and the father dies, it would be supposed, from what has been stated, that the son must succeed to the estate of the deceased; but in this case it may not take place, for the daughter of the second marriage must inherit equally with her brother, there being no full-brother to inherit. If a man has a child or children, and his brother and sister die before or after him without children, then this man's son succeeds both to his brother's and sister's property as well as to that of his deceased father.

It is the same with a woman who has a child or children, and whose brother or sister dies afterwards without leaving children, for this woman's daughter or daughters inherit both from the brother and sister of her or their deceased mother; but if the said brother and sister die first, and if the mother of the before-mentioned daughter is still alive,

Digitized by Google

then the mother inherits from the brother and sister, whereby the daughters remain deprived of that inheritance, for when the mother afterwards dies her son or sons are justly entitled to all that their mother leaves at her death.

Division of Property where two Persons, each being the sole Child of their respective Parents, die without Issue.

15 In the case of two married persons, each in particular being the sole child of their respective parents, all that the mutual parents possessed must be brought together ; and if the husband dies without leaving a child or children, then the property which proceeded from the father returns to the father's nearest relations, and to his mother's nearest relations all her dowry which he inherited and of the acquired property and debts, each a fourth part. The same usage obtains, as it respects her, for all that she inherited from the father returns to the father's nearest relations, and her mother's dowry to the mother's nearest relations, and of the acquired property and debts to each a fourth part, excepting that the gold and silver made for the husband's use goes reciprocally to his own father and to his mother's relations and all that was made for the wife's use and worn by her goes to her relations, although there should be on the one side the value only of ten rix-dollars and on the other the value of one hundred rix-dollars.

Having thus stated what is to be done with the property when a husband and wife dies, one after the other, without leaving a child or children, it is now necessary that we show, in case one of them dies, what the heirs ought to do to prevent all difficulties and losses. They must cause the survivor to return what was brought in marriage by the deceased, and also the half of the acquired property, they being justly entitled thereto ; but if from motives of affection or otherwise the heirs wish to leave the survivor in the possession of any part of the inheritance, they must do it in writing. If they neglect to do this, they must, when the survivor marries again, take back the property left in his or her possession. But if they do not do this also, and if he or she, having children by the second marriage, dies, in such case the heirs who have suffered so many years to elapse without claiming the property as are established by the laws of the country, remain deprived thereof. With respect to the crops that have been gathered, when one of them has died, disputes have often risen, one pretending that so much was produced from the hereditary lands, while the other pretends that so much was produced from the dowry lands ; but no attention is paid to such claims, for all kinds of grain collected are considered as acquired property, which they really are, and as such are divided equally.

Should any of the man's hereditary property or woman's dowry be diminished during marriage, when one of them dies and the property is divided the same must be made good from the acquired property, if it be sufficient ; if not, he or she who suffers the loss must put up with it patiently.*

* See Van Leuwen, p. 420. See also Vanderlinden, pp. 75 and 175; Domat, Vol I., pp. 167, 168.

Digitized by Google

Property how to be divided where it has been improved.

16 Should husband and wife during marriage considerably improve a piece of ground, whether it be husband's hereditary property or wife's dowry—for instance, by building houses, digging wells, and planting all sorts of fruit-bearing trees thereon—the heirs of the wife, should she die first, and should the improved ground be the husband's hereditary property, shall not be at liberty to claim any remuneration for the expenses made.* In thé like manner also the husband's heirs cannot claim any remuneration should the wife's dowry ground have been improved.

How where a Pagan marries a Christian Woman.

17 If a Pagan comes from the Coast or elsewhere and settles himself here, and being afterwards inclined to marry a Christian woman procure himself to be instructed in the Christian doctrine, and being sufficiently instructed is at last baptized and married, and by his industry acquires property by means of what his wife has brought in marriage, his heirs (should he die afterwards without leaving a child or children) shall not be entitled to anything : for, not having brought anything in marriage they consequently shall not carry anything out, and being moreover Pagans. But should the wife die first without leaving any child or children, the husband is lawfully entitled to the half of the acquired property, it having been gained by his industry.

How where two Pagans intermarry.

18 If a Pagan comes here as just stated and marries a Pagan woman, and such Pagan dies without leaving a child or children, his relations inherit the half of the property acquired during marriage ; because should he have left any child or children, and should they or his relations claim the inheritance, they certainly would get it without his having brought anything in marriage, they being Pagans ; but having once embraced the Christian religion the Pagan's relations are not entitled to anything. Pagans consider as their lawful wife or wives those around whose neck they have bound the *taly* with the usual Pagan ceremonies ; and should they have more women, they consider them as concubines. If the wives, although they should be three or four in number, should all and each of them have a child or children, such children inherit, share and share alike, the father's property ; but the child or children by the concubines do not inherit anything.

---

* See Van Leuwen, p. 427.

Digitized by Google

SECTION II.

OF ADOPTION.

1. Ceremonies of adoption.
2. Of the succession to, and division of, property, in the case of adoption, where the parties adopting leave other children.
3. Where the adopted person dies without issue.
4. Where two children, not related, are adopted.
5. Of the division of property among adopted children, to the adoption of whom some of the relatives of the person adopting, consent, while others refuse their consent.
6. Where one of three brothers adopts a child.
7. Of the adoption of a person of a higher or lower caste.

Ceremonies of Adoption.

1 If a man and woman take another person's child to bring up, and both or one of them being inclined to make such child their heir, they must first ask the consent of their brothers and sisters, if there be any—if not, that of their nearest relations who otherwise would succeed to the inheritance; and if they consent thereto, saffron water must be given to the woman or to the person who wishes to institute such a child their heir, to drink in the presence of the said brothers or sisters or nearest relations, and also in the presence of the witnesses, after the brothers and sisters or nearest relations, and also the parents of the child, shall previously have dipped their fingers in the water as a mark of consent. Although there be other witnesses, it is nevertheless the duty of the barbers and washermen to be present on such occasions.

If the brothers and sisters refuse to give their child, such a man and woman may take the child of another person, although a stranger, but they are not at liberty to drink saffron water without the consent of their brothers and sisters or of those who conceive themselves to be heirs; although this litigious people, from mere motives of hatred, often endeavour to prevent a man and woman who have brought up a child with the same love and tenderness as their own, from adopting such child. Nevertheless, according to the testimony of all the Mutaliyárs, such a man and woman may, in spite of the opposition, adopt such a child and bequeath it one-tenth part of the husband's hereditary or wife's dowry property; out of the acquired property they may bequeath more than one-tenth, provided they have not many debts. But such an adoption may not be made without the consent of the Magistrate, in order to keep them within the bounds of discretion, and also in order to prevent them from adopting children from motives of hatred towards their relations.

Of the Succession to, and Division of, Property in the case of Adoption, where the Parties adopting leave other Children.

2 But when the said man and woman have both together drunk saffron water, such or such a child shall inherit all that they leave when they die; and if, after such adoption,

Digitized by Google

they have a child or children of their own, then such adopted child inherits together with the lawful child or children. And it is to be observed that such an adopted child being thus brought up and instituted an heir, loses all claim to the inheritance of his own parents, as he is no longer considered to belong to that family, so that he may not inherit from them. If the adopting father alone drinks saffron water, then such a child shall succeed to the inheritance of his or her own mother; and if the adopting mother has alone drunk saffron water without her husband, then such a child inherits also from his or her own father.

Where the adopted Person dies without Issue.

3 If such an adopted person dies without leaving a child or children, then all that he or she might have inherited returns to the person or persons from whom it came, or to their heirs.

Where two Children not related are adopted.

4 If a husband and wife adopted two children, a boy and a girl, who are not related to one another by blood, so that they can marry together, and if both husband and wife together drink saffron water in manner above stated, and if both the said adopted persons be married together after they arrive to the age of maturity, and at the expiration of time one of them dies without leaving a child or children, then the survivor inherits the whole on account of the adoption which binds them as brothers and sisters, and not in the blood. It goes in the same manner if husband and wife, after having adopted a boy, have a daughter of their own. Such a boy is allowed to marry with the daughter, provided they are not nearer related by blood than brothers' and sisters' children, and they inherit from one another as before mentioned.

Division of Property among adopted Children, to the adoption of whom some of the Relations of the Person adopting consent, while others refuse their consent.

5 If a husband and a wife wish to adopt another person's child, to which adoption some of his or her brothers and sisters or nearest relations consent, and others do not consent, in such case the husband and wife are at liberty to adopt such a child, and to make him the heir to so much as the share amounts to of those who have consented to the adoption, and who, as a token thereof, must have dipped their fingers in the saffron water drunk by the husband and wife, leaving the inheritance to which the non-consenting party is entitled at their disposal, until such a time as husband and wife, or one of them, dies, when the child and each of them take the shares to which they are entitled. But if the said heirs, either through negligence or otherwise, permit or allow the adopted person to remain for several years in the peaceable possession of the property, the heirs by their silence forfeit their claim and title thereto.

Digitized by Google

Where one of Three Brothers adopts a Child.

6 If there are three brothers, one of whom has two children and the other two have none, and if one of these wishes, from pure motives of affection, to adopt one of his brother's children, which the other brother who has also no children wishes to approve, the two brothers may carry their design into execution, leaving to the third brother the action which he pretends to have on the inheritance. On the death of such adopting brother all his property is divided between the adopted child and the non-consenting brother, share and share alike. If the non-consenting brother, who has no children, wishes to give some of his property to the child who has remained with the father unadopted, the question is, Whether the adopted child can prevent it? The general opinion now is, that on account of the right which he had thereto (as nephew and heir of his uncle) being lost by the adoption, he must allow the giver to do with his property what he pleases as long as he lives.

Of the adoption of a Person of a Higher or Lower Caste.

7 If a man adopts in the manner above stated a youth of a higher or lower caste than his own, such child not only inherits his property, but immediately goes over into his adopted father's caste, whether it be higher or lower than his own. But if a woman adopts a child, such child cannot go over into her caste, but remains in the caste of his own father, and will only inherit the woman's property after death.

If a man adopts a girl of another caste in the manner above stated, *she* (it is true) goes over into the caste of her adopted father, but not her children or descendants: for if she marries, and has a child or children, they follow their father, except among slaves, in which case it has another tendency, for there the fruit follows the womb.

SECTION III.

OF THE POSSESSION OF GROUNDS AND GARDENS, &c.

1. Of joint possession or tenancy in common.
2. Of the renting of ground.
3. Division of produce where fruit trees overhang the ground of another.
4. To whom the possession of palmirah trees belongs.

Of Joint Possession or Tenancy in Common.

1 If two or more persons possess together a piece of ground without having divided it, and one of them incloses with a fence as much as he thinks he would be entitled to on a division, and plants thereon cocoanut and other fruit-bearing trees, and the other shareholders do not expend or do anything to their share of the ground until the industrious one begins to reap the fruits of his labour, when the other, either from covetousness or to plague and disturb,

Digitized by Google

come (which is frequently the case among the Tamils) and want to have a share in the profits without ever considering that their laws and customs clearly adjudge such fruits to the person who has acquired them by his labour and industry,—when in such a case (not being able to obtain the fruits) they generally request to divide the ground to know what belongs to each person, such division may not be refused. But care must be taken in making it that the part which has been so planted falls to the share of the brother who planted the same, and that the unplanted part falls to the share of the other joint proprietors; unless they wish to put off the repartition of the ground and give one another time to plant an equal number of trees, and by proper attention to get them to bear fruit, in which case the repartition must be general without considering who has planted the ground.

Of the Renting of Ground.

2 If a person has not a proper piece of ground of his own on which to plant cocoanut trees, and is allowed to do it on another man's ground, he gets two-thirds of the fruits which the trees planted by him produce, provided that he himself furnished the plants, and the owner of the ground receives the other third; but if the owner of the ground supplies the plants, the planter gets but one-third and the owner of the ground the other two-thirds; if, however, they have *both* been at an equal expense for the plants, then they are each entitled to an equal share of the fruits and trees. This division mostly takes place in the province of Tenmarádchi, for in the other provinces they know better how to employ their grounds than to let strangers plant cocoanut trees thereon. If a labourer squeezes out his *panankáys* and sows the kernels in order to obtain plants, and on digging them out forgets some of them, which afterwards become full-grown trees bearing fruit, the fruit which they produce remains the property of the owner of the ground, the trees having grown of themselves without any trouble (such as watering them) having been taken.

Division of Produce where Fruit Trees overhang the Ground of another.

3 If any one plants on his ground near the boundaries thereof any fruit-bearing trees which must be cultivated with a great deal of trouble, and if by a crooked growth the tree or any of the branches grow on or over the neighbour's grounds, the fruits of such tree nevertheless remain the entire property of the planter, without his neighbour having any right to claim the fruit of the branches which hang over his ground; but if any trees, such as tamarinds, illupai, and margosa, grow of themselves without having been planted or any trouble having been taken, in such case the fruit belongs to the person whose ground they overshadow.*

It seems that many customs have been invented here for the sole purpose of plaguing one another: for it is sufficient to say that the trees which stand on a person's own ground have grown up of themselves without trouble or labour,

* See Grotius, p. 209, section 21.

Digitized by Google

and that he is not to be the owner of the branches and fruit which grow over his neighbour's ground, the fruit of such branches being indisputably his; and he is even at liberty to cut the branches, if they hinder him, and sell the same for his own profit without the consent of the owner of the ground on which the trees stand. And the owner of the branches cannot also prevent the owner of the tree from cutting it down, but in such a case he must give the branches to the person over whose ground they hang. But, on account of the margosy oil, it has been ordered, since the Company has had possession of the country, that the trees are not to be cut down without the special consent of the persons in power; and it is the same with all other fruit-bearing trees.

To whom the Possession of Palmirah Trees belongs.

4 Although a piece of ground belongs to one person and the old palmirah trees standing thereon belong to another person, the owner of such trees cannot claim the young trees, as they must remain to the possessor of the ground, excepting in the village of Aráli, where it is an ancient custom that the owner of the old trees takes possession of the young trees, which is the reason why only a few young trees are found in that village. For although a few ripe *paṉaṅkáys* fall occasionally from the trees upon the grounds from which young plants proceed, the owner of the ground, when he wants to cultivate it, has a right to extirpate such plants in order to get rid of other persons' trees on his ground.

In the province of Teṉmaráḍchi and Pachchilaippaḷḷi, in so far as the trees and not the grounds stand mentioned in the Company's Tómpu, the owners of the old trees take the young ones; but where the grounds are mentioned and also the young trees, and for which rent is paid, then the young palmirah trees belong to the owners of the grounds.

SECTION IV.

OF A GIFT OR DONATION.

1. In what cases a gift may or may not be made where husband and wife live separately.
2. How far they may make donations to their nephews and nieces.
3. When they receive a gift of land from another person.
4. How far gifts to one of two sons are good.
5. Presents to sons, being bachelors, by relations, remain to them on their marriage, but no other presents.

---

1 When husband and wife live separately on account of some difference, it is generally seen that the children take the part of the mother and remain with her. In such a case the husband is not at liberty to give any part whatsoever of the wife's dowry away; but if they live peaceably he may give some part of the wife's dowry away. And if the husband on his side wishes to give away any part of his hereditary property which he has brought in marriage, he may then

give away one-tenth of it without the consent of the wife and children, and no more; but the wife, being subject to the will of her husband, may not give anything away without the consent of her husband.

How far they may make Donations to their Nephews and Nieces.

2 If a husband and wife have no children, and are therefore desirous to give away some of their goods to their nephews and nieces or others, it cannot be done without the consent of the mutual relations,* and if they will not consent to it they may not give away any more of their hereditary property and dowry; and if their debts be not many they may also give something from the property acquired during their marriage. If those nephews and nieces who have received such donations die without issue, then the brothers inherit from brothers and sisters from sisters, and the children and grandchildren succeed also if there be any; if not, it devolves to the parents of those who obtained the donation, that is to say, to their father's side and to his brother and his children, and in like manner on their mother's side to her sister and her daughters, and on failure of them to the brothers and their children; and in default of heirs on his or her side the gift returns to the donor and his nearest heirs.

When they receive a Gift of Land from another Person.

3 If a husband or his wife receives a present or gift of a garden from another person, so much of such gift or present as is in existence on the death of one of them, when the property is divided, remains to the side of the husband or wife to whom the present was made, without any compensation being claimable for any part of the gift that may have been alienated; but the proceeds thereof acquired during marriage must be added to the acquired property. But if any one has a present of a slave, cow, sheep, or anything else that may be increased by procreation, such present, together with what has been procreated, remains to the side where it was given, without any compensation being claimable for what might have been sold or alienated thereof.

How far Gifts to one of two Sons are good.

4 If a husband and wife have two sons and no daughters, and the husband, from a greater affection which he bears the eldest son more than the youngest, wishes to give him a part of his hereditary property, he may do it by executing a regular deed: and if, after the expiration of some time the youngest son dies without issue, and afterwards the parents die one after the other, then it will be as if the gift never had been made, for everything devolves to him who received the gift; and if he dies also without issue his property is inherited in the manner above stated. The father's hereditary property and the half of the acquired property, after deducting therefrom the debts, go to his brother or brothers, and the mother's dowry property and the other half of the acquired property (after deducting also therefrom the half of

* See Colebrooke's Hindu Law, Vol. II., p. 246.

Digitized by Google

the debts) go to his sister or sisters, without the latter being at liberty to claim anything on account of what the father gave to his son as above stated. The same also obtains if the grant or gift had been made on the mother's side; but if the gift has been obtained from any other person besides the father and mother, then it is divided both on the father's and on the mother's side.

If husband and wife have two, three, or more sons, and have given and delivered to them a piece of ground or garden, and if, after having possessed it for several years, the father and mother die, which causes a division of the estate, and if the above-mentioned son who has obtained the grant or gift demands that it shall be first delivered him from the estate, it may not be refused to him if he can prove it by a written document; if not, the gift is considered of no value, and is equally divided.

Presents to Sons, being Bachelors, by Relations, remain to them on their Marriage, but no other Presents.

5 We have stated above that all the property acquired by the son or sons while they are bachelors must be left by them to the common estate when they marry; but this is by no means understood to include the presents that have been made them by relations or others, which must remain to the persons to whom they have been given.

Should a husband and wife who have no children have acquired during their marriage any property, and should the husband, without the knowledge of his wife, give a part thereof to his heirs, and both afterwards die, in such case on the division of the estate the relations of the wife must receive beforehand a part equal to that which was given away by the husband to his relations when he was alive.

SECTION V.

OF MORTGAGES AND PAWNS.

1. Of mortgages of lands, on condition that the mortgagee should possess the same and take the profits thereof in lieu of money.
2. Mortgagee so in possession to be liable to all land taxes or duties.
3. Of redemption of a mortgage where due notice has not been given by the mortgagor.
4. Of mortgages for certain terms of years.
5. Of mortgages of fruit trees.
6. Of mortgages of slaves.
7. Of loans of money for the use of beasts.
8. Of pawns of jewels, &c.

Of Mortgage of Lands, on condition that the Mortgagee should possess the same and take the Profits thereof in lieu of Money.

1 When any person has mortgaged his lands or gardens to another for a certain sum of money, upon condition that such lands or gardens be possessed by the mortgagee, and that the profits thereof should be enjoyed by him instead of

Digitized by Google

the interest of his money, then the mortgagor of such lands or gardens cannot redeem the same whenever he pleases, but after the crop has been reaped he must give information of his intention to the mortgagee so as to prevent any further trouble, labour, and expense to the latter. In such case the mortgagor must, without failure, pay to the mortgagee the sum of money for which the said property has been mortgaged, namely, for the *varaku* lands in the months of July and August, and for the *paddy* lands in the months of August and September; but should the mortgagee have left the ground for the space of one year without sowing, for the purpose of having a better crop, in that case the mortgagor will be obliged to pay the money for which the grounds have been mortgaged in the month of November in the same year, and in the month of November also must be redeemed the *palmirah, betel, and tobacco gardens.* Yet should the mortgagee conceive a dislike to the land or garden mortgaged to him on account of the same not yielding so much profit as the interest of the money for which the lands have been mortgaged, and should therefore wish to get rid of the same and to recover his money, he shall be obliged in that case to wait for his money one year after the lands or gardens have been delivered to the proprietor or the mortgagor; and if the mortgagor is and remains unable to redeem such land or garden, in that case the same must be offered for sale to his heirs, who then may purchase such lands or gardens in case the same are worth more than the amount for which they were mortgaged, but should they *not* be worth so much the mortgagee must then accept and keep the same for the sum advanced by him, provided he is confirmed in the full possession thereof by a title deed drawn up in proper form.

Mortgagee so in Possession to be liable to all Land Taxes or Duties.

2 The mortgagee is to pay all such taxes and land duties to which the mortgaged land is subject, so long as he remains in the possession of the same, even for that year in which the mortgaged land is redeemed; for the payment of which taxes and duties the mortgagee must take a receipt from some person belonging to the Kachchéri, except in the province of Vadamarádchi, where the custom differs, because there the proprietor receives a tenth part of the fruits produced by the ground mortgaged by him, and he therefore pays the land duties and takes a receipt for the same in his own name; and for the palmirah trees he receives the duties upon the trees from the mortgagee or possessor, which duties he, as mortgagor, then pays to the Majorals and takes a receipt for the payment thereof in his own name.

Of Redemption of a Mortgage where due Notice has not been given by the Mortgagor.

3 In case the mortgagor wishes to redeem his mortgaged ground, but out of ignorance informs the mortgagee too late of his intention, namely, after the ground has been dug or other labour has been bestowed on it, in that case the redeemer must give to the mortgagee his proper share from the fruits which the land has produced in that year for the

labour and expenses which he has bestowed upon such lands; in such case the redeemer must observe the customs prevailing in the province and village.

Yet when the mortgagee receives the money advanced by him, but cannot agree with the proprietor with respect to the profits expected by him according to the custom of the country, the proprietor in that case must permit the mortgagee himself to sow that piece of land, provided that he gives to the proprietor of the land, according to the custom of the country, the *taraivâram*, that is, the ground duty.

Of Mortgages for certain Terms of Years.

4 At present it is the prevailing custom here that many persons mortgage their lands for a fixed term of three, five, eight, or ten years; yet, in case the mortgagor before the expiration of the stipulated time shall be compelled to sell a piece of mortgaged land either for the purpose of discharging his debts or for some other reasons, the mortgagee cannot prohibit such a sale, but must consent to it and receive or accept the sum of money advanced by him according to the custom of the country.

Of Mortgages of Fruit Trees.

5 If any person has mortgaged to another, in the manner above mentioned, any fruit-bearing trees, viz., cocoanut, mango, jak, or areca trees, and is able to redeem the same, he must do so in the months of December or January; and the mortgagee may pluck such ripe fruits as are eatable from the said trees before he delivers over the same to the proprietor.

Of Mortgages of Slaves.

6 If any male or female slaves have been mortgaged upon the before-mentioned condition, and if they have fallen sick after some time, it is the duty of the mortgagee to give information thereof to the proprietor, in order that he may cause his male or female slaves to be cured of such disease as they labour under; but should the mortgagee cause such male or female slaves to be cured at his own expense, without giving notice thereof to the proprietor, all such expenses as were incurred by him for that purpose are to be defrayed by himself, and he cannot demand the same from the proprietor; yet should such male or female slaves happen to die, the proprietor must then return to the mortgagee the sum for which such slaves had been mortgaged.

Of Loans of Money for the use of Beasts.

7 Should any person lend a sum of money to another upon condition that the debtor, instead of paying the interest, should furnish the lender with one or more beasts for the purpose of having his land ploughed, without mentioning, however, what buffaloes or bullocks are to be delivered by him during the period that he keeps the borrowed money under him, and should a beast or beasts so delivered to be used in ploughing the land happen to die during the said period, the debtor or the proprietor of such beast or beasts

Digitized by Google

is obliged to furnish the lender of the money with one or more beasts instead of those which are dead, in order to be kept by the lender of such sums of money until his land has been ploughed, after which the borrower of the money may acquit himself from the said obligation by returning such sums of money as were borrowed by him.

Of Pawns and Jewels, &c.

8 Should any person take in pawn any jewels or wrought gold or silver for a certain sum of money in order to receive a monthly interest upon the same, and should the proprietor of the pawned goods be able to prove that the pawnee has either worn them himself or has lent out the same to be worn by others, the pawnee in such case will forfeit the interest of the sum of money lent by him;* and such pawnee will be obliged in such case to return the pawn for such an amount as was lent by him to the pawner.

SECTION VI.

OF HIRE.

Of the Hire of Beasts.

When any person has hired one or more beasts in order to plough his land, the proprietor of such beasts is not obliged to furnish the person who has hired the same with fresh beasts in case such as were hired become sick or happen to die during the time that they were used to plough the land. In case any person borrows from another any beasts for his use with the free consent of the proprietor, such proprietor, according to the custom of the country, may not demand from the borrower any indemnification for such of the beasts as are hurt or have broken their legs, but must consider the loss as accidental and consequently bear the same.

SECTION VII.

OF PURCHASE AND SALES.

1. Of sales of land.
2. Of sales of cattle.
3. Of the sale of children.

Of Sales of Land.

1 Formerly, when any person had sold a piece of land, garden, or slave, &c., to a stranger without having given previous notice thereof to his heirs or partners, and to such

---

* See Colebrooke's Hindu Law, Vol. I., p. 149.

Digitized by Google

of his neighbours whose grounds are adjacent to his land, and who might have the same in mortgage, should they have been mortgaged, such heirs, partners, and neighbours were at liberty to claim or demand the preference of becoming the proprietors of such lands.* The previous notice which was to be given to persons of the above description was to be observed in the following manner, viz., to such as resided at the village, one month ; to persons residing in the same province but out of the village, three months ; to those residing in another province, six months ; and to those who reside abroad, one year.

The above periods having expired without such persons having taken any steps upon the information given to them, the sale was considered valid ; yet this mode of selling lands underwent an alteration afterwards in consequence of the good orders given on that subject during the time of the old Commandeur BLOOM (of blessed memory), as since those orders no sale of lands whatever has taken place until the intentions of such as wish to sell the same have been published on three successive Sundays at the church† to which they belong, during which period such persons as mean to have the preference to the lands for sale according to the ancient customs of the country are to come forward and to state the nature of their preference, in consequence whereof they then became the purchasers of the same.

It is customary under this nation that a piece of land which has been mortgaged to one person is sold to another, for which sale, according to the above-cited order, proper title deeds are granted, although the new purchaser is unable to discharge the amount of the purchase-money, and in consequence thereof pays immediately to the seller only that part of the purchase-money which exceeds the sum for which the land has been mortgaged, and afterwards leaves the same in possession of the former mortgagee for the amount for which it was mortgaged by the former proprietor, until the new purchaser has the means to pay the amount for which the said land has been mortgaged. This manner of dealing creates many disputes, as it occurs very often that such sums of money are not discharged before the expiration of eight, nine, or ten and more years, on which account I am of opinion (yet submitting mine to wiser judgment) that the passing of title deeds without the purchase amount being fully discharged should be prohibited, or at least that orders should be given that in cases of the above-described nature the mortgage deed made previously in the name of the seller should be repealed, and that a new one should be passed in the name of the purchaser instead of that which has been repealed.

Of Sales of Cattle.

2 If any person wishes to sell cattle, viz., bullocks, cows, buffaloes, sheep, &c., the sales thereof are to take place without any application or acts in writing, which sales are considered valid when the dry dung or excrement of such

* See Van Leuwen, p. 384. † See also Grotius, p. 352.

Digitized by Google

animals as were sold has been delivered by the seller to the purchaser; and in case the animals so sold happen to die or to get young ones before they are delivered up, the purchaser being able to prove by witnesses that the seller has sold them to him for a sum of money, and that the dry dung or excrement of those animals has been received in token of their having been sold, obtains the right of a proprietor of such animals as were purchased by him, as well as of their young ones, without any claim whatever being made to them by any other person whomsoever, or any compensation for loss in case of death.

Should any person sell any of his bullocks or buffaloes, &c., upon a statement that they are fit to be employed in ploughing lands, and should the contrary appear to be the case after the price has been agreed upon and paid for them, the purchaser may in such case, within the period of fifteen days, deliver back to the seller such of the above-described animals, and may demand from him the price paid for the same, who in that case is also obliged to restore it to the purchaser.

Should any person sell a cow or a she-buffalo to another, stating that the animal sold has once or several times had young ones, and should it appear afterwards that the animal sold upon the above statement, instead of having had young ones once or several times, is a cow which never bears a calf, and consequently unfit for generation, the purchaser may in that case deliver back to the seller the cow or such other animals as were purchased by him, and he may demand from the seller the restoration of the purchase-money. But should any person, on the contrary, purchase a calf a year and a half or two years old, and should it appear afterwards that the calf so purchased grows up a cow which never bears a calf, or is unfit for generation, the purchaser is then obliged to keep the same, as no fraud whatever could have taken place in the sale thereof.

Of the Sale of Children.

3 Where parents of this country neither are or never were slaves, yet sell their children when they are in needy circumstances, notwithstanding they are free people, such parents have a right to redeem their children when they are in better circumstances for such prices as may be fixed upon by arbitrators; in which case the proprietor of slaves of the above description may not hinder or object to their being redeemed.

This is an ancient custom which, according to my opinion, is grounded on reason; and I am also of opinion that in case slaves of the above description can prove that they became slaves in the manner heretofore stated, they ought not in such case to be deprived of the above-mentioned privilege, as the sale of free-born natives has been positively prohibited in this country.

Digitized by Google

SECTION VIII.

OF MALE AND FEMALE SLAVES.*

1. Different classes of slaves.
2. Marriages of slaves.
3. Division of the property of slaves dying without issue.
4. Division of property where there are children.
5. Duties of married slaves.
6. Sale of slaves having lands, &c.
7. Mode of emancipating slaves.
8. Of succession to the property of an emancipated slave.

Different Classes of Slaves.

1 The slaves of this country are divided into four castes, viz., *Kóviyars*, *Cháṇḍárs*, *Paḷḷars*, and *Naḷavars*. It would be a matter of great difficulty to find out that the two former castes were slaves from their origin, as it is supposed that some of them were sold in ancient times by their parents or friends to others. This supposition is entertained especially with respect to the Kóviya caste, the greatest part of whom are slaves at present, and such as were not slaves caused themselves by some intrigue or other to be registered in ancient times in the church rolls and thombos under the denomination of other castes, so that none of that denomination are free at present.

The slaves of the second caste, viz., the Cháṇḍárs, are but few in number, and such of this caste as were in slavery were not registered in the thombo as Cháṇḍárs, but under the denomination of Kóviyars, so that the remaining part of them are free and perform Government services in the same manner as the Veḷḷáḷas; and these Cháṇḍárs perform their ordinary *Úḷiyam*, or Government services, during one day in every month, besides which they are obliged to provide the elephants of Government in the stables of the province with food, together with the Paḷḷars and Naḷavars, and also to assist in carrying the pallakkus and the baggage of the Company's Civil Servants of rank. The two other castes are slaves from their origin, and remain so till the present time unless any of their masters out of compassion happen to emancipate them, which very seldom takes place.

Marriages of Slaves.

2 When people of this description intend to enter into matrimony during the time that they continue in slavery they are obliged to inform their masters of their intentions and obtain their consent thereto, for which purpose they must state to their masters with whom they intend to marry; and when they have obtained the consent of their masters they get a certificate from them, to be produced to the schoolmaster of the church to which they belong; which certificate being produced, the marriage ceremony is performed.

The proprietors never give their consent to such marriages except when their male slaves wish to marry with their own female slaves; yet if circumstances do not permit it, they then allow their slaves to enter into matrimony with female

* Slavery abolished by Ordinance No. 20 of 1844.

Digitized by Google

slaves of other persons. But Government male slaves are prohibited from marrying with any other female slaves, and if they wish to marry they must do so with the female slaves of Government.

Division of the Property of Slaves dying without Issue.

3 In case any of these slaves happen to depart this life without issue, then the deceased's master (should the deceased's brothers and sisters be slaves of other persons) appropriates to himself such inheritances and dowries as were brought by the deceased into the marriage, and also half of the property acquired during the deceased's marriage; yet in case the deceased's brothers and sisters are also the slaves of the deceased's master, they are then permitted to possess such property, unless the proprietor of the slaves himself is in an indigent situation and has nothing to subsist upon.

Division of Property where there are Children.

4 If it happens that such slaves procreate children together, the child may not inherit from his father at his death when the father is a slave of another person; but should the mother happen to die, her master has the choice either to appropriate to himself half of the property which the deceased had brought into the marriage, and also a quarter part of the whole property acquired during her marriage, or to deliver to the female slave's children all the goods left behind by their mother at her death, because the children of slaves of different masters appertain to the proprietor of the female slaves. Formerly the masters of such male slaves as married with female slaves of other proprietors had the right when his slaves had procreated five or six children to appropriate to himself one of the boys; yet he had no right to take any when they were girls; but this right is enjoyed at present by no person whatever except Government; that is to say, when the male slaves of Government were married with female slaves of the inhabitants before the publication of the aforesaid order.

Duties of Married Slaves.

5 The male and female slaves of the above description live separately from their masters, and are obliged to earn their own livelihood in such manner as they think proper, the Pallars and Nalavars male slaves giving yearly to their masters four fanams in cash as a token of their gratitude. And they are obliged to perform for their masters Government services when they require the same, on which occasion the masters are obliged to maintain the slaves so employed; but should the slaves fail therein, and the *chikku* money be demanded from their masters on behalf of Government, the slaves are then obliged to pay the *chikku* money for their masters, as such neglect is not to be attributed to the masters but to the slaves, because they have received maintenance for the time that they were to be employed, and have deceived their masters.

They must also be ready when required by their masters to repair the fences of their masters' lands, provided that they receive maintenance during the time they are at work

Digitized by Google

for their masters. When the boys among the children of the slaves are able to be employed as herdsmen, the master then chooses such of them as he likes for that purpose, provided that he gives them food and raiment so long as he employs them.

When the female slaves of the above description happen to be delivered of a child, their masters are obliged to provide such female slaves with such articles as are required by women in childbed, to the amount of six fanams, viz., when their female slaves are Naḷavars and Paḷḷars. The master being unable to contribute the said six fanams, and the Naḷavars and Paḷḷars themselves having no means to defray the expense, are permitted to pawn either the child of which the female slave was delivered or another of her children, for the amount of six fanams, until such female slave is able to redeem the child so pawned. The proprietors of the Kóviyars slaves usually give them something more, but the slaves of the Kóviyars and Cháṇḍárs castes are not permitted to pawn their children in any manner whatsoever, as that custom prevails only among the slaves of the Naḷavars and Paḷḷars castes.

Sale of Slaves having Lands, &c.

6 When any person intends to sell a male or female slave who possesses a piece of land, garden, or other thing, and wishes not to be deprived of the right which he has to the property of his male or female slaves, he is obliged to take possession of the property of such slaves before he sells them, and to deal therewith as he may think it expedient. But should the seller, through negligence or otherwise, allow the slave so sold to possess his goods unmolested, the seller cannot in that case have the least claim to such property.

It sometimes occurs that wealthy inhabitants who have many slaves make a present of one of their slave girls to a poor widow, in order that she may get a husband for her daughter by giving the slave girl to her daughter either as a gift or dowry ; and as the person who makes a present to another of such a slave girl loses the right which he had to her, so the parents of such a slave girl, should she happen to continue residing at their house, may give to their daughter nothing whatever from their goods as a dowry at her marriage, whereas all the property of such parents when they are slaves appertains to their master, and their child having been made a present, as above stated, to another, becomes the slave of another person, and in consequence thereof has no share in her parents' goods unless her former master consents thereto.

Mode of Emancipating Slaves.

7 When a man, whether married or not, has no child or children, and intends to emancipate a male or female slave inherited by him, he is obliged to announce his intention to the schoolmaster of the church to which such female or male slave belongs, and to request that he will publish in the church his intention on three successive Sundays, in order that his community, but especially those wishing to oppose

Digitized by Google

such intention, may get notice thereof in due time and be able to institute such claims as they think they have to such slaves; and should any person come forward during the time that such publication takes place, both they, as well as the person wishing to emancipate the slave, must submit to the decision of such arbitrators as they choose to appoint thereto; yet if a married man having no child or children wishes to emancipate a male or female slave appertaining to his wife's dowry, he must do so with his wife's consent, and such emancipation must further take place in the manner heretofore stated with respect to a single man, but husband and wife having children may emancipate one or more slaves according to their pleasure.

When a person has a child by his own female slave, he may emancipate such child without consent of his heirs, and may also make a donation (though of no great consequence) to such child out of his hereditary property.

Of Succession to the Property of an Emancipated Slave.

8 In case an emancipated male or female slave happens to die childless, leaving behind him brothers and sisters by his or her mother's side, and if among the deceased's brothers or sisters only one should have been emancipated, the emancipated brother or sister of the deceased only inherits from the deceased; yet should *none* of the deceased's brothers or sisters by the mother's side have been emancipated, in that case the legitimate children of the deceased's father are the heirs, should there be any; but in the contrary case, the goods left behind by a deceased person of the above description devolve again upon the persons from whom such property was received by the deceased, and afterwards to their heirs.

It was an old custom during the time of the heathen, which still subsists among them on the coast of Coromandel, and also at some other places, that when the proprietor of a slave, on account of such slave's faithful services or from any other motives, emancipates one or more of his slaves, and such emancipated slaves after the lapse of some time behave themselves improperly to their former masters or to their children, in that case the emancipated slaves were reduced again into slavery.

When I was occupied in composing and writing these country laws and customs, a great many of the principal inhabitants and Mutaliyárs expressed their sorrow to me that the above-cited ancient customs, not having been observed for a long time, had lost their force in that country, as no emancipated slaves (so far as they could recollect) were reduced into slavery for their improper behaviour to their masters, either under the Portuguese or under the Dutch Government, the consequence whereof, they said, was that emancipated slaves have been very impertinent to their masters and benefactors, on which account the aforesaid principal inhabitants and Mutaliyárs urgently requested me that I should propose the said ancient customs being again made a positive law in order to restrain the impertinences of any emancipated slaves. In compliance with their request I propose that the said customs be made a positive law.

Digitized by Google

SECTION IX.

OF LOANS OF MONEY UPON INTEREST.

1. Of loans for fixed terms.
2. Securities how far liable for debt.
3. Wife or children how far liable for husband's debts.
4. Interest not to exceed the principal.
5. Of loans of paddy.
6. Of exchanges of paddy, &c.
7. What proportion of profits is to be paid where any person sows the grounds of another without stipulating any fixed portion of the produce.

Of Loans for Fixed Terms.

1 When any person lends a sum of money upon interest to another upon condition that the borrowed sum should be restored within the time fixed by the lender, with such interest as was usually paid to others at the time that the money was lent by him, should such conditions not be fulfilled by the debtor, the creditor in that case must cause the pawn to be sold, if he has had the prudence to take any lands or any other goods whatever in pawn; and in case the debtor does not consent to the said pawns being sold, the lender of such sums of money must prefer his complaint to Government and request from the same that such mortgaged goods be sold for his benefit.

Securities how far liable for Debt.

2 Should there be securities and should the debtor or borrower abscond or be in reduced circumstances and unable to discharge the debt contracted by him, the creditor may then demand the payment of such debts from the securities, who in such case are obliged to discharge the debts for which they became securities, and such securities reserve the right of instituting an action against the debtor should the latter be improved in circumstances. If two persons jointly borrow a sum of money from another and bind themselves generally* for the amount borrowed, the lender in that case may demand the payment of the amount so lent from such a debtor as he may happen to see first, provided that the following expressions are inserted in the *ólai*, or bond, viz., *Muṉṉiṉráṉ muṉ irukka*, which signifies, "He who is present or before me must pay the debt;" the consequence whereof then is that the debtor who comes first before the creditor, when he intends to demand the money, must pay the whole debt; but such a debtor who pays the whole debt has a right to demand the payment of half the amount paid by him from his fellow-debtor wherever he may find him.

Wife or Children how far liable for Husband's Debts.

3 When a man has contracted debts in his lifetime without the knowledge either of his wife, child, or children, and happens to depart this life before he has discharged the

* See Colebrooke's Hindu Law, Vol. I., p. 110. What follows shows that this is not intended to apply to a "joint bond," but to "joint and several bonds."

Digitized by Google

same, his wife, child, or children are obliged to pay such debts, provided the same be duly proved.

When husband and wife jointly cause a piece of land or a garden to be registered as a pawn for a sum of money borrowed by them, and do not deliver over such land or garden to the creditor, but keep the same in their own possession, and in consequence thereof give them afterwards to any of their daughters as a dowry without specifying in the deed of gift that such a piece of land or garden has been mortgaged to another—if the debtors in the supposed case happen to depart this life without discharging a debt of the above nature, yet leaving behind some other goods—their creditors of the above description, who have neglected to prevent such mortgaged lands or garden from being given as a dowry, have a right to seize such other goods as might have been left behind by the debtors; and the son or sons of such debtors are responsible for such debts, provided that the creditors (if such son or sons are unable to discharge the debt) do wait until they are in better circumstances.

*Interest not to exceed the Principal.**

4 When a person lends money upon interest and suffers the interest to exceed the principal, the debtor is not obliged to pay the interest exceeding such principal.

Of Loans of Paddy.

5 When a person lends money on condition to receive paddy on account of interest, he loses the interest when the harvest fails; and in the event of a bad harvest the interest is to be calculated and paid according to the profits of that harvest.

When any person is in want of paddy either as seed corn or for any other purpose, and borrows paddy to pay interest in kind, the borrower must stipulate the quantity which he agrees to pay, because it is not known what quantity is customary to be paid on such occasions, on which account the creditors take from two to five parais upon a quantity of ten parais of paddy; and the mode to be observed in paying paddy on account of interest is that just stated in the event of a bad harvest or of no harvest having taken place. In case the debtor has had a good harvest every year during the time that he keeps the borrowed money, and the creditor has neglected to come and demand his interest upon the harvest, the debtor is not obliged in that case to pay anything on account of interest exceeding the principal, but it is sufficient if he pays double the principal sum borrowed by him.

Of Exchanges of Paddy, &c.

6 In case any person wishes to exchange grain, the paddy,† *chámi*, *kurakkan*, *kollu*,‡ *rice*, and *cadjan* must be exchanged for an equal quantity, because they bear the same price; but any person wishing to exchange paddy for varaku must give one and a half parai of varaku for one parai of paddy.

* Vanderlaiden, p. 219. † This must be a mistake.

‡ An old Tamil version has, "Peas and rice are exchanged for an equal quantity."

Digitized by Google

What Proportion of Profits is to be paid where any Person sows the Grounds of another without stipulating any fixed Portion of the Produce.

7 When any person sows the fields of another without a previous agreement what quantity the sower shall give from the harvest to the proprietor of the fields, it is deemed sufficient if the sower pays to the proprietor the *taraivâram*, which signifies the ground duty, and is calculated to be one-third part of the profits, except the tenth part, which is to be given to the proprietor previously. And when the sower has agreed to give a fixed quantity to the proprietor, and the crop happens to fail in the year for which the contract has been made, the sower need not pay to the proprietor the quantity agreed upon ; but in case the other inhabitants of the village (in which such a sower resides) have all had a good harvest, then the sower of the above description is obliged to pay such a quantity to the proprietor as was agreed upon by him, because in such an event the failure of the crop of the field sown by him is attributed to his laziness and negligence ; yet should it happen that he has had a tolerably good harvest and the other inhabitants of his village a bad one, then the proprietor of the ground must be satisfied with the quantity produced by the field, and may not claim *anything* more from the sower.

The above laws and customs of Jaffnapatam were composed by me in consequence of my experience obtained by my long residence and intercourse at that place. I have written the above laws and customs after a strict inquiry into the same by order of His Excellency the Governor and Doctor of Laws, CORNELIS JOAN SIMONS, and I hope my endeavours will satisfy His Excellency the Governor's intention; in the expectation whereof I have the honour to be,

Honourable Sir,
Your Excellency's most obedient, humble Servant,
(Signed) CLAAS ISAAKSZ.

Jaffnapatam, 30th January, 1707.

To the Hon. the COMMANDEUR ADAM VAN DER DUYN.

SIR,—YOU are not ignorant that I have composed the Malabar Laws and Customs by order of His Excellency the Governor, which I have done so far as my knowledge of the same permitted me ; yet to prevent any future disputes concerning the same, I request that you will have the goodness to cause them to be translated into Malabar by the translator Jan Pirus, who is known to have a thorough knowledge of that language. And I also request that you will cause the Malabar translation to be attentively perused by twelve sensible Malabar Mutaliyárs, in order that they may state their objections, in writing, to my composition, should they have any ; in which case I request that you will appoint such persons as would be able to point out to you such mistakes as might have been committed either by me or by

Digitized by Google

the said twelve Mutaliyárs; and should such persons as are appointed by you decide in my favour, I request that you will desire them to sign the Malabar translation. I insist upon this mode of giving their assent to my composition, because I know that the Malabars are deceitful and variable, and therefore when they have subscribed their names to the composition of their laws and customs they will have no opportunity whatever to retract their assent given to the same. In the expectation that you will not refuse me this favour in your capacity of Commandeur of this place, I remain,

Honourable Sir,
Your most obedient, humble Servant,
(Signed) CLAAS ISAAKSZ.

Jaffnapatam, 5th April, 1707.

SIR,—PURSUANT to the application made to me by the Dessave, Mr. Claas Isaaksz, I have caused the composition of the Malabar Laws and Customs in use at this place to be translated; and I afterwards delivered the translations thereof to twelve sensible Mutaliyárs, whose names are hereunder specified, in order to peruse and revise the same. They have been employed in that work a great length of time, and have now returned the same to me with the following observations, viz.:—

"We, the undersigned twelve Mutaliyárs, have received from the Commandeur the Malabar Laws and Customs composed by the Dessave, Mr. Claas Isaaksz, in order to be perused and revised by us, and afterwards to state our opinion whether or not the same agrees with such laws and customs as are in use at this place.

"We were also desired to confirm the translation of the Malabar Laws and Customs with our signatures, should we agree to the correctness of the same.

"We declare by these presents that the composition of the said Malabar Laws and Customs perfectly agrees with the usual customs prevailing at this place, and we therefore fully confirm the same. But we deem it our duty to state hereby that, according to the ancient customs which prevailed under the Portuguese Government, and also at the commencement of the Dutch Government, in case slaves happened to behave themselves disrespectfully to their masters and disobey any of their orders, such masters had a right to give them correction, and by that means to make them mind their duties. But within the last eight or ten years it very often happens that as soon as masters punish their slaves for any faults, such slaves maliciously tear their own ears and anoint their body, in order that they may have a pretence to complain of their masters' ill-treatment, the consequence whereof is that such slaves obtain some lascoreens from the Magistrate in order to bring their masters before the same. Such occurrences cannot but injure the characters of the masters and at the same time render the slaves audacious.

"We must also observe that when any slaves are conveyed to the fort to be put in chains for their misbehaviour, the proprietors are obliged to pay great expenses, and are unable to defray the same when they are in indigent circumstances, on which account the slaves very often disobey and vex their indigent masters. We, the conjunct Mutaliyárs, therefore request that it may please His Excellency the Governor to order that the payment of twenty-four stivers, which is at present received on such occasions from the masters, may be diminished.

"We, Don Philip Villaivarása Mutaliyár, Don Anthony Nárâyanan, Don Francisco Aruḷampala Mutaliyár, Don Joan Chantirasékara Máná Mutaliyár, Don Martinho Maṉappuli Mutaliyár, Don Francisco Waṉṉiyarása Mutaliyár, Don Joan Chayampunáta Mutaliyár, Don Joan Chútukávala Cheṉátiraya Mutaliyár, Don Louwys Pútar, and Don Francisco Rásarattina Mutaliyár, are the persons who have perused

Digitized by Google

and revised the translation of the Malabar Laws and Customs, in consequence whereof we *confirm* the same with our signatures."

In consequence of the above declaration I conceive that Your Excellency may rely upon the correctness of the Malabar Laws and Customs written by the Dessave, and I therefore hope that Your Excellency will either entirely approve of the same or make such alterations therein as you may deem necessary for the welfare of the inhabitants. In the meantime, I remain, with the highest respect,

Honourable Sir,
Your Excellency's most obedient, humble Servant,
(Signed) A. V. DER DUYN.

A true copy.
(Signed) J. HUYSMAN,
Secretary.

EXTRACT OF A LETTER DATED 4TH OF JUNE, 1707, WRITTEN FROM COLOMBO BY HIS EXCELLENCY THE GOVERNOR AND DOCTOR OF LAWS, CORNELIS JOAN SIMONS, IN COUNCIL, TO THE COMMANDEUR IN COUNCIL OF JAFFNAPATAM, ADAM VAN DER DUYN.

THE Malabar Laws and Customs composed by the Dessave Claas Isaaksz are approved of by Us, and in consequence thereof We desire that authenticated copies of the same should be sent to the Court of Justice and the Civil Landraad for their guidance. And We also desire that the said Laws and Customs should be entered in the records at the office of the Secretary to Government. And as We have read in the composition of the Malabar Laws and Customs an application to Us for the necessary orders relative to the purchase and sale of lands, gardens, and slaves, &c., so We desire by these presents that no title deeds whatever should be passed before the amount of purchase-money has been duly discharged, and that in case the property disposed of might have been mortgaged previously to any other person, We desire that the seller of such properties should redeem the pawn, and that the purchaser, if he wishes to leave such property with the pawnee for the amount of which it has been mortgaged by the former proprietor, should grant a new bond to the pawnee in his own name in order to avoid any future disputes.

As to the application made to Us to have the emancipated male and female slaves reduced again into slavery according to the heathen customs in case they behave themselves disrespectfully to their former masters, We think that a compliance with that application would be productive of very bad consequences; yet in order to bridal any impertinences of emancipated slaves, We are of opinion that the punishment directed for slaves in the twentieth article of the Statutes of Batavia may be made use of to correct the impertinences of such emancipated slaves.

We cannot also comply with the application made to Us by the Mutaliyárs respecting the orders for diminishing the expense of half a rix-dollar which is usually incurred by such masters as are desirous to put their slaves in chains, because the masters would in that case have recourse too often to that punishment on account of the cheapness of iron.

A true copy.
(Signed) J. HUYSMAN,
Secretary.

Compared with the original at
Jaffnapatam, the 16th December, 1707.

(Signed) J. HUYSMAN,
Secretary.

Digitized by Google

Regulation No. 18 of 1806.

A Regulation for the Security of Property and the Establishment of a due Police in the District of Jaffnapatam and its Dependencies.

1–13 Repealed.

14 The Thase Walema, or customs of the Malabar inhabitants of the province of Jaffna, as collected by order of Governor Simons, in 1706, shall be considered to be in full force.

15 All questions between Malabar inhabitants of the said province, or wherein a Malabar inhabitant is defendant, shall be decided according to the said customs.

16 All questions that relate to those rights and privileges which subsist in the said province between the higher castes, particularly the Vellales, on the one hand, and the lower castes, particularly the Covias, Nalluas, and Palluas, on the other, shall be decided according to the said customs and the ancient usages of the province.

9th December, 1806.

Ordinance No. 4 of 1895.

An Ordinance relating to the publication of intended sales or other alienations of Immovable Property affected by the "Thesavalamai" of the Northern Province of Ceylon.

Preamble.

WHEREAS it is expedient to repeal the provision for the publication of sales and other alienations of immovable property situated in those parts of the Northern Province to which the *Thésavaḷamai* applies: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Repeal of so much of the *Thésavalamai* as requires publication and schedule of sales of immovable property, and repeal of Ordinance No. 1 of 1842.

1 From and after the date on which this Ordinance comes into operation, so much of the *Thésavaḷamai* prevailing in certain parts of the Northern Province as requires publication and schedule of intended sales or other alienations of immovable property, and the whole of the Ordinance No. 1 of 1842, entitled "To make certain Regulations respecting the granting of Schedules on execution of deeds affecting land in the Northern Province," shall be repealed.

Proviso.

Provided that such repeal shall not affect any right, privilege, obligation, or liability acquired, accrued, or incurred, nor anything duly done or suffered under the said Ordinance, nor any penalty, forfeiture, or punishment incurred in respect of any omission, or neglect, or delay, or illegal demand under the said Ordinance, nor any legal proceedings or remedy in respect of any such right, liability, obligation, penalty, forfeiture, or punishment as aforesaid.

23rd October, 1895.

Digitized by Google

PROCLAMATIONS, REGULATIONS, &c.

Proclamation of 23rd September, 1799.

WHEREAS it is His Majesty's gracious command that, for the present and during His Majesty's will and pleasure, the temporary administration of justice and police in the settlements of the island of Ceylon, now in His Majesty's dominion, and in the territories and dependencies thereof, should, as nearly as circumstances will permit, be exercised by us in conformity to the laws and institutions that subsisted under the ancient government of the United Provinces, subject to such deviations in consequence of sudden and unforeseen emergencies, or to such expedients and useful alterations, as may render a departure therefrom either absolutely necessary and unavoidable or evidently beneficial and desirable :

The institutions which subsisted under the late Dutch Government to continue in force, subject to such alterations, &c.

2 We therefore, in obedience to His Majesty's commands, do hereby publish and declare, that the administration of justice and police in the said settlements and territories in the island of Ceylon, with their dependencies, shall be henceforth and during His Majesty's pleasure exercised by all courts of judicature, civil and criminal, magistrates, and ministerial officers, according to the laws and institutions that subsisted under the ancient government of the United Provinces, subject to such deviations and alterations by any of the respective powers and authorities hereinbefore mentioned, and to such other deviations and alterations as we shall by these presents, or by any future proclamation, and in pursuance of the authorities confined to us, deem it proper and beneficial for the purposes of justice to ordain and publish, or which shall or may hereafter be by lawful authority ordained and published.

Torture and barbarous modes of punishment formerly existed.

3 And whereas it having been represented to His Majesty that the practice of proceeding by torture against persons suspected of crimes, and of punishment after conviction in many capital cases by breaking upon the wheel and other barbarous modes of execution, had prevailed in the said settlements on the island of Ceylon, it was His Majesty's will and pleasure that we should wholly abolish those forms of trial and punishment, which humanity condemns and experience has shown to be less efficacious in the prevention of crimes than more lenient and equitable proceedings.

Practice of torture and barbarous modes of punishment abolished.

4 We therefore do hereby abolish throughout all and every the said settlements and territories and their dependencies within our government the practice of proceeding by torture against any person or persons suspected of any crime or crimes, and we do hereby also abolish the practice of inflicting punishment on any person or persons convicted, or who shall or may be convicted of any crime or crimes, by breaking on the wheel, mutilation, or other barbarous modes of punishment and execution; and the same are hereby

Digitized by Google

abolished accordingly. And we do ordain and appoint that all capital punishment shall be inflicted by hanging the offender by the neck until he be dead, and not in any other manner whatsoever.

Offenders to be hanged.

5, 6, 7 Repealed.

8 And whereas, by the criminal law as administered under the Government of the United States, no sentence of death could be legally pronounced against any offender, however conclusive the evidence given against him might be, unless he confessed his guilt, for the purpose of obtaining which confession it was the practice to pronounce a sentence of torture against the prisoner, and as on the one hand neither the influence of promises nor the dread or menace of torture will hereafter be employed to obtain from offenders a confession of their guilt, so on the other hand public justice requires that the laws shall be duly maintained and carried into execution without being impeded by want of the confession of the offender, and it is therefore expedient that the necessity of obtaining such confession should be removed : we do therefore direct and ordain that in all criminal cases the court shall in future proceed to pronounce sentence according to law and in the evidence given, and in manner and form prescribed by these presents, without requiring the confession of the prisoner, any law of the United States, provincial or other statute, usage, or custom to the contrary notwithstanding.

The practice of procuring confession by torture abolished.

9-24 Repealed.

25 And we do hereby allow liberty of conscience and the free exercise of religious worship to all persons who inhabit and frequent the said settlements of the island of Ceylon, provided always that they quietly and peaceably enjoy the same without offence or scandal to Government.

Liberty of conscience and the free exercise of religious worship allowed.

Extract from the Minutes of a Council held at Colombo this 5th day of August, 1806.

(See section 10 of Ordinance No. 5 of 1852 and Ordinances No. 8 of 1886 and No. 2 of 1888.)

Present:

His Excellency the Governor.
The Honourable Alexander Johnston, Esq.
Robert Arbuthnot, Esq.

THE Chief Justice submits to the Governor in Council the code of Mahomedan laws observed by the Moors in the province of Colombo, and acknowledged by the head Moormen of the district to be adapted to the present usages of the caste.

Resolved on the motion of the Chief Justice that the same be published, and that they be observed throughout the whole of the province of Colombo.

Digitized by Google

SPECIAL LAWS CONCERNING MAURS OR MAHOMEDANS.
FIRST TITLE.

Relating to Matters of Succession, Right of Inheritances, and other Incidents occasioned by Death.

Mahomedan Law of Inheritance, &c.

WHEN either husband or wife dies, either leaving or not having children, the survivor shall in the first place separate and take away from the estate the dowry brought in marriage by him or her, the same not being in common.

2 A husband dying leaving a wife but no children or relations, the estate shall, after deducting the burial charges and other legacies, be divided in four shares, viz.:

One-fourth to the wife and the other three-fourths to the poor.

3 The husband dying and leaving a wife and one or more sons, then the estate is divided as follows, viz.:

One eighth part to the wife, and to the son or sons seven eighth parts.

4 The husband dying leaving a wife and a daughter:

The wife is entitled to one eighth part.

The daughter to the just half, and the poor to the remaining three eighth parts.

5 The husband dying leaving his wife and two daughters, then is due:

To the wife, one eighth part.

Two-thirds to both the daughters, and five twenty-fourth parts to the poor.

6 When the husband dies leaving his wife and three daughters:

One eighth part goes to the wife, three-fourths to the three daughters, and one eighth part to the poor; and should there even be more daughters they shall not inherit more than three fourth parts.

7 The husband dying leaving his wife and a son and one daughter:

The wife is entitled to one eighth part.

The son to seven-twelfths and the daughter to seven twenty-fourth parts.

8 Should there be more than one son and one daughter, then the division is fixed as follows:

One eighth part to the wife, and

The son or sons twice as much as the daughters get.

9 The wife dying leaving alone her husband:

The husband is entitled to the half and the poor to the other half.

10 The wife dying leaving the husband and one son, the estate is divided as follows:

Digitized by Google

One fourth part to the husband and three fourth parts to the son ; should there be even more sons they will get no more than three fourth parts.

11 The wife dying leaving a husband and one daughter :
The husband is entitled to one fourth part of the estate.
The daughter to the just half and the poor to one fourth part.

12 The wife dying leaving a husband and two daughters:
The husband is entitled to one fourth part. The two daughters to two-thirds and the poor to one-twelfth.

13 The wife dying leaving a husband and three daughters, the estate must be divided into thirty-three parts, viz. :
Three sixteenth parts to the husband. Three fourth parts to the three daughters, and one sixteenth part to the poor. And in this manner the estate shall be divided even if there are more daughters.

14 The wife dying leaving a husband, one son, and one daughter, the estate shall be divided as follows, viz. :
To the husband one fourth part, to the son the just half, and to the daughter one fourth part.

15 The wife dying leaving her husband, one son, and two daughters, the following is allotted :
One fourth part to the husband, three eighth parts to the son, and three eighth parts to the daughters. This manner of dividing the estate shall take place even if there be more sons and daughters.

16 Should the husband or wife die leaving a father and mother :
The father gets two-thirds and the mother one-third.

17 Any one dying leaving a father and mother and one son :
The father is entitled to one-sixth part, the mother to one-sixth, and the son to two-thirds.

18 Anybody dying leaving a father and mother and one son and one daughter :
The father is entitled to one-sixth, the mother to one-sixth, the son to four-ninths, and the daughter to two ninth parts.

19 A person dying leaving a father and mother and one daughter :
The father is entitled to one-third, the mother to one-sixth, and the daughter to the just half.

20 A person dying leaving a father and mother and two daughters :
The father gets one-sixth, the mother one-sixth, and the two daughters two-thirds, and although there be more daughters they shall have no more than two-thirds.

21 A man dying leaving a daughter and a son's daughter, or granddaughter, they are entitled to the following :
The daughter to one-half of the estate, the granddaughter to one-sixth, and the poor to one-third.

Digitized by Google

Mahomedan Law.

22 Should even the husband leave besides his aforesaid daughter two or more granddaughters, their share shall however, not surpass what is stated here above.

23 A grandfather or grandmother and father or mother dying, and a granddaughter surviving them:

The one-half of the estate shall go to the granddaughter and the other half to the poor.

24 But in case two granddaughters have been left; then,

Two-thirds go to the two granddaughters and one-third to the poor.

25 If a person has only a grandson he succeeds to the whole property.

26 A person dying leaving a grandson and a granddaughter, the estate is divided as follows:

To the grandson two-thirds and to the granddaughter one-third; and although there be more grandsons and granddaughters the division shall take place in the same manner.

27 Should any person die leaving a daughter and a son's son, or grandson, one-third of the estate devolves to the daughter and two-thirds to the grandson.

28 But in case two daughters and one grandson are left, each of them is entitled to an equal share of the estate.

29 But should there be a daughter, a grandson, and a granddaughter, the estate is then divided as follows:

The half to the daughter, one-third to the grandson, and one-sixth to the granddaughter.

30 Should, however, there be two daughters, one grandson, and one granddaughter, the estate shall be divided as follows:

To the two daughters two-thirds.

To the grandson two-ninths, and to the granddaughter one-ninth.

31 Should there be one daughter, two granddaughters, and one daughter's son, the estate is to be divided as follows:

To the daughter the half, to the two granddaughters one-fourth, and to the grandson one-fourth.

32 Should there be two daughters, two granddaughters, and one daughter's son or grandson:

The two daughters are to have two-thirds, the two granddaughters three-eighteenths, and the grandson one-eighteenth.

33 Should anybody die leaving one daughter and a sister, although he and the sister be of two mothers and the same father:

The half of the estate shall go to the daughter and the other half to the sister.

34 Should the deceased leave one daughter and two sisters:

The daughter must have the half and the two sisters the other half.

Digitized by Google

Mahomedan Law.

35 Should he have left two daughters and two sisters :
The two daughters shall have two-thirds and the two sisters one-third; the same division shall take place even if there be more daughters and sisters.

36 The husband dying leaving his wife with one daughter and a son's daughter, and leaving also a mother and one sister, the estate shall be divided as follows :
The wife shall have one-eighth.
The daughter the half.
The granddaughter one-sixth.
The mother one-sixth, and
The sister one twenty-fourth part.

37 But should, as in the above case, the husband survive his wife, and remain with the above persons, then the estate is divided as follows :
To the husband three-thirteenths.
To the daughter six-thirteenths.
To the granddaughters two-thirteenths, and to the mother two-thirteenths, and the brothers and sisters are, in this case, not to share in the inheritance.

38 The deceased leaving one brother and one step-brother from the side of another father or mother :
The full brother is entitled to five-sixths and the step-brother to one-sixth.

39 A person dying leaving two brothers or sisters of one mother and two fathers :
The two brothers or sisters are to have one-third and the poor two-thirds.

40 The deceased leaving two half brothers or sisters of one mother and another father, and one full brother and one full sister, the estate is divided in the following manner :
One-third goes to the two half brothers or sisters, four-ninths to the full brother, and two-ninths to the full sister

41 The wife dying leaving her husband and her grandfather, each of them is entitled to one half of the estate.

42 The husband dying leaving his wife and his grandfather, one-fourth of the estate devolves to the wife and three-fourths to the grandfather.

43 Should the deceased leave a daughter and grandfather, each of them shall be entitled to an equal share of the estate.

44 Should the deceased leave two daughters and a grandfather, each of them shall be entitled to one-third of the estate.

45 Should there be a grandfather of the father or mother's side, and a son and a daughter :
The grandfather shall be entitled to one-sixth, the son to five-ninths, and the daughter to five eighteenth parts.

46 Should the wife die leaving her husband, grandfather or grandmother, and a son :

Digitized by Google

The husband shall be entitled to one-fourth, the grandfather or grandmother to one-sixth, the son to seven twelfth parts.

47 Should there be two sons, then the husband is entitled to one-fourth.
The grandfather or grandmother to one-sixth, and the two sons to seven twelfth parts.

48 Should there be also a son and a daughter :
The husband is entitled to one-fourth, the son seven-eighteenths, the grandfather or grandmother to one-sixth, and the daughter to seven thirty-sixth parts.

49 Should the deceased leave a grandfather and grandmother of the father's side :
The grandfather is entitled to five-sixths and the grandmother to one sixth part.

50 Should the deceased have left a grandfather and grandmother of the father's side, and a grandmother of the mother's side, then :
The grandfather of the father's side is entitled to two-thirds, the grandmother of the father's side to one-sixth, and the grandmother of the mother's side to one-sixth.

51 The wife dying leaving her husband, father, and a son, then :
The husband is to have one-fourth.
The father one-sixth, the son seven-twelfths.

52 The husband dying leaving his wife, mother, and a daughter :
The wife is to have one-eighth.
The mother one-sixth.
The daughter the half of the estate and the poor five twenty-fourths.

53 The husband dying leaving two wives and a son, then :
The two wives are to have one-eighth, and the son seven-eighths, and should there be more wives the division shall take place in the same manner.

54 A grandfather or grandmother dying leaving a son's daughter or granddaughter :
The granddaughter is to have one-half of the estate and the poor the other half.

55 A person dying leaving two granddaughters of his son's side and a brother, each of them is entitled to one-third.

56 If the deceased has left a sister she is entitled to the half, and the poor to the other half.

57 The wife dying leaving her husband and two sisters :
The husband is entitled to three-sevenths, and the two sisters to four-sevenths.

58 If the wife has left two full sisters and an uncle of her father's side, then each of these persons shall be entitled to one third part.

Digitized by Google

59 An emancipated female slave dying leaving her husband and one daughter, together with her late master or mistress, then :

The husband is entitled to one-fourth.

The daughter to one-half, and the master or mistress to the other one-fourth.

60 An emancipated male slave dying leaving his wife, daughter, and his master or mistress, then :

The wife is entitled to one-eighth.

The daughter to one-half, and the master or mistress to three-eighths.

61 An emancipated female slave dying leaving her husband and two daughters, together with her late master or mistress, then the property is divided as follows :

One-fourth to the husband, two-thirds to the two daughters, and one-twelfth to the late master or mistress.

62 If such an emancipated male slave dies :

The wife will be entitled to one-eighth.

The two daughters to two-thirds, and the master or mistress to five twenty-fourth parts.

63 Lastly, agreeable to the same rule, all descendants are entitled to their respective shares of inheritances according to the persons they represent in the same manner as—

A wife or her descendants, a full brother or his descendants, paternal uncle and full uncles and aunts and their children, and their descendants if there be no nearest kin, fathers' brothers' and mothers' sisters' children are entitled to the same shares as sons and daughters.

SECOND TITLE.

Concerning Matrimonial Affairs.

64 A person wishing to marry, application must be made to the bride's father and mother for their consent.

65 Should the parents of such bride be dead, the man must make his intentions known to the relations of the bride, and endeavour to obtain their consent.

66 And after consent having been obtained it is the custom that the bride and bridegroom interchange some presents, which, however, are reciprocally restored if the marriage does not take place.

67 The parents or nearest relations of the bride shall then with the knowledge of the bride enter upon an agreement with the bridegroom concerning the marriage gift, called maskawien.

68 The matter being settled, the bridegroom is obliged to pay to the bride immediately what has been agreed upon.

69 But should the bridegroom not be able to pay such marriage gift immediately, it is, with special consent of the bride, however, carried to a separate account.

Digitized by Google

Mahomedan Law.

70 The bridegroom is obliged to inform the commandant, or the headman under whose orders he stands, of his intended marriage.

71 The commandant will then by means of the native commissioners apply to His Excellency the Governor for his consent.

72 The maskawien or magger being paid or remained owing, the priest or lebbe shall be informed thereof.

73 The priest and commandant are then obliged to record all such transactions, and to permit the marriage ceremonies to be performed.

74 Should, before the consummation of the marriage, it be discovered that the bridegroom laboured under any bad complaints, such as leprosy, insanity, or any other disorder, so that he is unable to perform the matrimonial duties, in which case a divorce is permitted.

75 The bride wishing to be divorced is obliged to inform the priest thereof, who after having deliberated with the commandants on both sides in the presence of the native commissioners accedes to the divorce, which they are obliged to record; should the parties, however, not wish to abide by the decision they shall be at liberty according to custom to lay their case before the competent judge.

76 The bride is in such case obliged to restore to the bridegroom the maskawien or magger.

77 But should the disorder be discovered after the cohabitation a divorce may take place, and the wife may in that case keep the maskawien or magger.

78 And although such complaint should be discovered by the bride either before or after the consummation of the marriage, the husband is entitled to the maskawien or magger if discovered before the cohabitation, but the wife is entitled to the same if discovered after.

79 Married persons, whether they can allege any reasons or not, being with mutual consent divorced, the husband is obliged to allow his wife the moettelaak or ready money proportioned to the marriage gift for the support of the house.

80 Should the husband and wife disagree, and live in continued dissensions with one another and wishing to be divorced;

81 In that case the priest and the commandants on both sides are obliged to inquire into the matter and endeavour if possible to reconcile parties.

82 But should the wife oppose a reconciliation, and the husband being inclined to a divorce, in that case they shall be separately kept by their own relations.

83 After which a meeting of the priests and the officers of the company shall be appointed.

Digitized by Google

84 And the matter in dispute shall be investigated for a second time, and endeavours made to bring the parties if possible to a reconciliation.

85 And if the parties cannot come to a reconciliation before the said assembly the matter in question must be brought before the sitting magistrate.

86 And if the wife should oppose the reconciliation she shall be held to restore to the husband twice the value of the maskawien.

87 The husband being desirous to divorce his wife, he shall be obliged to give her the tollok or letters of divorce, which is repeated a second time at the expiration of fourteen days, and at the end of one month she receives the third tollok, during which time the husband is obliged to maintain the wife and to furnish her with all necessaries.

88 Before the third tollok is issued a reconciliation between the parties may take place, and it is not necessary that they should disclose to anybody the causes of their differences.

89 But should the third tollok have been issued they must divorce, and it is in use, that should the husband be determined to divorce his wife without any further consideration, to issue three tolloks or letters of divorce at once, but in that case he is obliged to furnish the wife with a dwelling place for the space of three months, and she shall not be allowed to marry before she has had three times her menses.

90 The husband is held to give notice to the commandant on both sides of such divorce, which shall be recorded by them, and nobody else shall meddle themselves therewith.

91 No wife is obliged to receive from the husband any interest money for her maintenance, but such maintenance must according to the Mahomedan law be the product of some trade or manual work of the husband.

92 A married man decaying into poverty, so as to be unable to maintain his wife, such wife, if she should be possessed of any wealth which she is unwilling to share with her husband, may obtain a divorce, should she wish it, under the same provision as stated in the 76th Article.

93 The husband leaving his wife in order to repair to some place or other on business, he must without giving occasion to divorce provide for the maintenance of his wife in the presence of his relations.

94 A married woman disobeying her husband shall suffer herself to be reprimanded by him for the first time with kindness in order to bring her back to her duty.

95 Should the wife, however, fail in her due obedience for the second time, the husband is then permitted to inflict

Digitized by Google

on her some gentle correction, but by no means to treat her in a rough manner so as to occasion any marks either in her face or other parts of her body, much less is he permitted to beat her on any dangerous place of the body so that blood appears.

96 A divorced wife being pregnant is entitled to be maintained till she be delivered by her husband, who is also obliged to pay the expense of her lying-in.

97 The wife in the above case is obliged to nourish her child during three days without being at liberty to ask or receive anything.

98 But the husband is after the expiration of that time obliged to fix a certain amount for the maintenance of the child if the wife requires it.

99 Should the wife be unwilling to keep the child longer than three days the husband is obliged to receive it.

100 A man is according to the law of Mahomet permitted to marry four wives, that is to say, only such men as are uncommonly addicted to the fair sex, who have abilities enough to acquit themselves of their duty, and who are possessed of wealth enough to maintain the same properly.

101 Such men are also permitted to keep under their protection besides their lawful wives so many concubines as they are able to maintain.

102 The husband and wife being divorced, and the third tollok having been issued, are not permitted to reconcile and live as husband and wife, unless the wife has been married to another husband and obtained from him also letters of divorce.

The shares allotted to the poor by several of the foregoing articles are not for the poor, but must go to the asewatoekares, aroegamoedeweigel, and people of the fathers' and mothers' side who are entitled to the same.

Heirs who claim such inheritances make the same known to the headman of the Maurs, the arbitrators, the priests, who then at the entrance of the gate of the temple inquire and decide the case, and cause the shares to which each is entitled to be given to them; and as according to the Mahomedan custom the woman may not go out, it is therefore the custom that their cases are inquired into and settled in an amicable manner, but not being contented therewith both such cases and the criminal ones are brought before the Governor.

In this manner we the marcair, arbitrators, priests, and inhabitants have, according to our knowledge, and having consulted with the learned high priests, stated the foregoing articles as agreeable to the laws and customs for to be observed, and have confirmed the same with our signatures, at Colombo, the 1st of August, 1806.

Digitized by Google

Ordinance No. 8 of 1886.

(*As amended by No. 2 of 1888.*)

An Ordinance to provide for the Registration of Mohammedan Marriages contracted in this Colony.

WHEREAS it is expedient to provide for the registration of the marriages of persons professing the Mohammedan faith in this island : Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows : — Preamble.

1 This Ordinance may be cited as "The Mohammedan Marriage Registration Ordinance, 1886." — Short title.

It extends to the whole of this island, and so far only as regards subjects of Her Majesty professing the Mohammedan faith ; — Extent.

And it shall come into operation in such district or respective districts as shall be defined, and at such time or respective times as shall be appointed, by the Governor in Executive Council, by Proclamation to be published in the *Government Gazette*. — Commencement.

2 In this Ordinance, unless the context otherwise requires— — Interpretation clause:

"Officiating levvai" shall mean any Mohammedan levvai who shall be licensed by the provincial registrar to register marriages under this Ordinance. — "Officiating levvai."

"Provincial registrar" shall mean the provincial registrar of marriages appointed under the provisions of Ordinance No. 15 of 1877,* or of any future Ordinance providing for such appointment. — "Provincial registrar."

"Registrar" shall mean the registrar appointed by the Governor under section 8 or section 14 of this Ordinance. — "Registrar."

3 So much of the Code of Mohammedan Laws of 1806 as is inconsistent with this Ordinance is hereby repealed. — Repeal.

4 The provincial registrar may at his discretion issue a license, in the form contained in schedule A, to any Mohammedan levvai applying for the same, who, in his opinion, shall be a fit and proper person to be licensed to register marriages under this Ordinance, and any such license at his discretion revoke and recall. — Provincial registrar to license officiating levvai. Every license shall bear a stamp of one rupee, which shall be supplied by the applicant, and shall be duly cancelled by the provincial registrar ; — License to be stamped. and a list of such licenses shall be made and preserved in the office of the provincial registrar, and shall from time to time be published in the *Government Gazette*. And no officiating levvai shall register any marriage contracted under this Ordinance outside the limits of the province named in his license. — License to act only within the province.

5 It shall be the duty of the officiating levvai who attends the marriage ceremonies at the request of the contracting parties for the purpose of registering the marriage, immediately upon the performance of such ceremonies to register the marriage at the wedding meeting held according to custom, and such registration shall be in duplicate, that is to say, in a marriage register book, which he is hereby required to keep for that purpose, and — Marriages to be registered in duplicate.

* Repealed by No. 2 of 1895.

Digitized by Google

which shall be furnished to him by the provincial registrar, according to the form contained in the schedule B hereto annexed, and also in a certificate attached to the marriage register book as a counterfoil; and the entries in the register book and in the certificate shall be in the Tamil language.

Entries of such marriages to be signed and attested.

6 The entry of such marriage in both the certificate and marriage register book shall be signed by the officiating levvai, and also by the bridegroom and by the lawful wali of the bride, and shall be attested by two witnesses present at the marriage; and where the party required to sign is not able to write, he shall affix his mark.

Number of certificate to correspond with that of register book.

Every such entry shall be made in order from the beginning to the end of the book, and the number of the certificate shall correspond with that of the entry in the marriage register book.

Certificate to be forwarded to provincial registrar.

7 The officiating levvai registering the marriage shall forthwith separate the certificate from the marriage register book and send it, within seven days from the time of the registration, to the provincial registrar of his province to be filed of record in his office; and every such certificate shall bear a stamp of twenty-five cents, which shall be supplied to the officiating levvai by the persons contracting the marriage, and which shall be duly cancelled by him as required by law.

Governor to appoint Mohammedan registrar.

Registrar may register marriages.

8 It shall be lawful for the Governor, by notification in the *Gazette*, to appoint any Mohammedan other than an officiating levvai to be a marriage registrar in respect of any district or place where there is no resident officiating levvai, for the purpose of registering marriages under this Ordinance; and a legal marriage may be contracted under this Ordinance before such registrar, who shall, upon the performance of the usual marriage ceremonies, register such marriage.

Provisions applicable to marriages so registered.

9 The provisions of sections 5, 6, and 7 of this Ordinance, as to the form of the register book, the mode of registration, the transmitting of the stamped certificate to the provincial registrar, and the due cancelling of the stamp thereon, shall, *mutatis mutandis*, apply to the marriages contracted before the registrar in manner provided in the last preceding section.

Penalties.

10 Every officiating levvai or registrar who shall wilfully register any marriage contracted outside the limits of the province, district, or place to which he shall have been licensed or appointed, or who shall register any marriage at which he shall not have been present, or who shall wilfully neglect to keep a marriage register book as required by section 5, or to register in the said marriage book in the manner provided in section 6 any marriage which by this Ordinance he shall be bound to register, or who shall fail without lawful excuse to send the counterfoil certificates duly stamped to the provincial registrar as required by section 7, or who shall wilfully disregard the regulations made as provided in section 14, shall be guilty of an offence, and shall be liable to a fine not exceeding one hundred rupees.

Penalty for refusing to sign register, or not providing the necessary stamp.

11 Every person required thereto by section 6 who refuses to sign the register book, and every person liable thereto under section 7 who refuses or neglects to provide the necessary stamp for the counterfoil certificate, shall be guilty of an offence, and shall be liable to a fine not exceeding twenty rupees.

Power to supply omissions or correct errors in registration.

12 Where a marriage has been contracted under the provisions of this Ordinance, which, without the fault of the parties thereto, may have been omitted to be registered, or may have been erroneously registered, it shall be lawful to either of the said

Digitized by Google

parties, or in case of his or her death, to the issue or other lawful representative of such party, to apply to the government agent of the province or the assistant government agent of the district within which the marriage took place, to have such marriage correctly registered: and such government agent or assistant government agent shall cause the officiating levvai or registrar before whom the marriage was contracted, and such other parties as to him shall appear expedient, to be noticed to show cause why such application shall not be granted. If no sufficient cause be shown to the contrary, and the government agent or assistant government agent shall be satisfied, after hearing such evidence as the parties may adduce, that such marriage has been proved, he shall certify the same to the provincial registrar, who shall thereupon cause such marriage to be registered.

13 *If both the parties to a marriage shall knowingly and wilfully intermarry under the provisions of this Ordinance under false names, such marriage shall be null and void; and if either of the parties to a marriage shall knowingly and wilfully consent to, or acquiesce in, the registration of a marriage by a person not being an officiating levvai or registrar, such party shall be guilty of an offence, and liable on conviction to a fine not exceeding one hundred rupees.* *Clandestine marriages void. Registration by persons other than levvai or registrar made penal.* [§ *2*, *2 of 1888*]

14 It shall be lawful for the Governor from time to time, with the advice of the Executive Council, to make, and when made, to revoke, add to, and alter regulations for the guidance of the officiating levvais and registrars in the discharge of their duties, and to dismiss any registrar from his office and appoint another in his stead, and from time to time to amend the form given in schedule B. Governor in Executive Council may make regulations, and may dismiss registrar.

15 Every officiating levvai or registrar who shall register a marriage under this Ordinance shall be entitled to the payment of a fee of one rupee and fifty cents. Fee payable to officiating levvai or registrar.

16 Every person claiming interest in any marriage shall be entitled at all reasonable hours to inspect the register books or counterfoil certificates on payment of a fee of ten cents, and to obtain a certified copy of any entry therein on payment of a fee of twenty-five cents. Inspection of register books and certificates, and obtaining copies thereof.

17 *Proof of the registration of any marriage contracted by persons professing the Mohammedan faith, after this Ordinance shall have come into operation, shall be received in all courts in this colony as the best evidence of such marriage; but nothing herein contained shall be construed to render valid or invalid, merely by reason of its having been registered or not having been registered, any Mohammedan marriage which would otherwise be invalid or valid, or to preclude any legal evidence other than that of registration from being adduced in proof of such marriage.* *Registration not to be sole proof of marriage.* [§ *3*, *2 of 1888*]

18 Whoever by himself or another wilfully destroys or injures any register book or counterfoil certificate, or any part thereof, or any authenticated extract therefrom, or falsely makes or counterfeits any part of such register book or counterfoil certificate; or wilfully inserts any false entry in any such register book or counterfoil certificate, or authenticated extract therefrom; Destroying or falsifying register book or counterfoil certificate. and whoever, not being an officiating levvai or registrar, registers or professes to register any marriage under this Ordinance, shall be punished with rigorous imprisonment for a term which may extend to seven years. Unauthorized registration.

19 The time for the prescription or limitation of a suit or action for the whole or part of a woman's dower shall not begin to run until after the dissolution of the marriage by death or Prescription of action for dower.

Digitized by Google

Mahomedan Law.

divorce, and such suit or action shall be maintainable if commenced within such time as any action shall be maintainable by the Ordinance No. 22 of 1871, or by any future Ordinance regulating the prescription of actions, for the recovery of money paid or expended by a plaintiff on account of a defendant, or for money received by a defendant for the use of a plaintiff.

Register books to be furnished free of charge.

20 The marriage register books, with the counterfoil certificates attached thereto, shall be furnished by the provincial registrar on the application of the officiating levvai or registrar free of charge.

Register books to be returned by levvai or registrar who resigns, or is dismissed.

21 Every officiating levvai, when his license is resigned by him or is revoked by the provincial registrar, and every registrar when he resigns his office, or is dismissed by the Governor in manner provided in section 14, shall forthwith return to the provincial registrar all such marriage register books, with the counterfoil certificates thereof, as shall be in his possession at the date of such resignation, revocation, or dismissal; and if any officiating levvai or registrar shall fail or neglect so to do, he shall be guilty of an offence, and be liable to a fine not exceeding one hundred rupees.

When levvai or registrar dies, books and certificates to be given up on demand to provincial registrar.

22 In the case of the death of any officiating levvai or registrar, if any of his heirs, executors, administrators, or successors in office, or any other persons into whose possession any register book or counterfoil certificate belonging to such officiating levvai or registrar shall have come, shall fail or neglect to deliver over the same on demand to the provincial registrar, he shall be guilty of an offence and be liable to a fine not exceeding one hundred rupees.

Appeal.

23 Every order made by the provincial registrar refusing or revoking a license under section 4, and every order made by the government agent or assistant government agent certifying the proof of a marriage under section 12, shall be subject to an appeal to the Governor in Executive Council, and every such appeal shall be preferred within seven days after the order appealed from shall have been notified to the party or parties concerned.

SCHEDULE A.

I, ———, Provincial Registrar of Marriages for the ——— Province, dc hereby license ———, of ———, to register marriages under "The Mohammedan Marriage Registration Ordinance, 1886," within the ——— Province.

———

Provincial Registrar.

Digitized by Google

Mahomedan Law.

SCHEDULE B.

Marriage Register Book.

No.—— Marriages registered by ———,
Officiating Levvai (*or* Registrar).

Date of Marriage.	Name and Residence of the Bridegroom.	Names and Residence of Bridegroom's Parents.	Name and Residence of the Bride.	Names and Residence of Bride's Parents.	Name in full of Officiating Levvai or Registrar.	Amount of Mahr and Stridanum.	Mahr and Stridanum, whether prepaid or not.

Signatures of Parties :

Bridegroom :———
Bride's Wali :———

Signatures of Witnesses :

(1) ———
(2) ———

———
Officiating Levvai (*or* Registrar).

18th February, 1886.

Certificate of Marriage.

No.—— Marriages registered by ———,
Officiating Levvai (*or* Registrar).

Date of Marriage.	Name and Residence of the Bridegroom.	Names and Residence of Bridegroom's Parents.	Name and Residence of the Bride.	Names and Residence of Bride's Parents.	Name in full of Officiating Levvai or Registrar.	Amount of Mahr and Stridanum.	Mahr and Stridanum, whether prepaid or not.

Signatures of Parties :

Bridegroom :———
Bride's Wali :———

Signatures of Witnesses :

(1) ———
(2) ———

———
Officiating Levvai (*or* Registrar).

Digitized by Google

Regulation No. 18 of 1806.

A Regulation for the Security of Property and the Establishment of a due Police in the District of Jaffnapatam and its Dependencies.

(*See under The Tésawalamai, page 43.*)

Regulation No. 3 of 1811.

For the Protection of His Majesty's Pearl Banks of Ceylon.

(*See Ordinance No. 18 of 1843.*)

WHEREAS there is reason to suspect that depredations are committed in the pearl banks of this island by boats and other vessels frequenting those places in the calm season without any necessity or lawful cause for being in that situation :

Penalty if vessels found within the limits of the pearl banks.

If any boat or other vessel shall hereafter, between the 10th of January and the end of April, or between the first of October and the end of November, in any year, be found within the limits of the pearl banks, as described in the schedule hereunto annexed, anchoring or hovering and not proceeding to her proper destination, as wind and weather may permit, it shall be lawful for any person or persons holding a commission or warrant from His Excellency the Governor for the purposes of this Regulation to enter and seize such boat or other vessel and carry the same to some convenient port or place in this island for prosecution. And every such boat or other vessel is hereby declared liable to forfeiture by sentence of any court having revenue jurisdiction of sufficient amount, and shall be condemned accordingly, two-thirds thereof to the use of His Majesty and one-third to the persons seizing or prosecuting, unless such boat or other vessel shall have been forced into the situation aforesaid by accident or other necessary cause, the proof whereof to be on the party alleging such defence.

SCHEDULE.

Vessels navigating the inner or along shore passage are not to hover or anchor in deeper than four fathoms water.

Vessels navigating the outer passage are not to hover or anchor within twelve fathoms of water.

9th March, 1811.

Digitized by Google

Proclamation of 11th February, 1815.

WHEREAS the armies of His Majesty the King of Great Britain have occupied and entered into complete possession of the Kandyan provinces, denominated the Four Korles, the Saffragam Korle, and the Three Korles, and the chiefs and people of those provinces have fully and freely surrendered the same and submitted themselves without reserve to His Majesty's Government:

The said provinces of the Four Korles, the Saffragam Korle, and the Three Korles, with all their royal rights and dependencies, are become, and they are hereby declared to be, integral parts of the British possessions in the island of Ceylon, and are henceforth received under the sovereignty and protection of His Majesty the King of Great Britain.

Official Bulletin of 2nd March, 1815.

THIS day a solemn conference was held in the audience hall of the Palace of Kandy, between His Excellency the Governor and Commander of the Forces on behalf of His Majesty and of His Royal Highness the Prince Regent on the one part, and the adigars, dessaves, and other principal chiefs of the Kandyan provinces on the other part, on behalf of the people, and in presence of the mohottales, coraals, vidaans, and other subordinate headmen from the different provinces, and a great concourse of inhabitants.

A public instrument of treaty, prepared in conformity to conditions previously agreed on, for establishing His Majesty's government in the Kandyan provinces, was produced and publicly read in English and Cingalese, and unanimously assented to.

The British flag was then for the first time hoisted and the establishment of the British dominion in the interior was announced by a royal salute from the cannon of the city.

All the troops present in this garrison were under arms on the occasion of this important event.

Official Declaration of the Settlement of the Kandyan Provinces.

LED by the invitation of the chiefs, and welcomed by the acclamations of the people, the forces of His Britannic Majesty have entered the Kandyan territory and penetrated to the capital—Divine Providence has blessed their efforts with uniform and complete success—the ruler of the interior Provinces has fallen into their hands, and the government remains at the disposal of His Majesty's representative.

In this sacred charge it is his earnest prayer that the Power which has vouchsafed thus far to favour the undertaking may guide his councils to a happy issue, in the welfare and prosperity of the people, and the honour of the British empire.

Digitized by Google

Under circumstances far different from any which exist in the present cases it would be a duty, and a pleasing one, to favour the re-establishment of a fallen prince, if his dominion could be fixed on any principles of external relation compatible with the rights of the neighbouring government, or his internal rule in any reasonable degree reconciled to the safety of his subjects.

But the horrible transactions of the fatal year 1803, forced upon the recollection by many local circumstances and by details unknown before—the massacre of 150 sick soldiers lying helpless in the hospital of Kandy, left under the pledge of public faith, and the no less treacherous murder of the whole British garrison commanded by Major Davie, which had surrendered on a promise of safety, impress upon the Governor's mind an act of perfidy unparalleled in civilized warfare, and an awful lesson recorded in characters of blood against the momentary admission of future confidence—while the obstinate rejection of all friendly overtures, repeatedly made during the intermission of hostilities, has served to evince an implacable animosity destructive of the hope of a sincere reconciliation.

Of this animosity a daring instance was exhibited in the unprovoked and barbarous mutilation of ten innocent subjects of the British Government, by which seven of the number lost their lives—a measure of defiance calculated, and apparently intended, to put a final negative to every probability of friendly intercourse.

If, therefore, in the present reverse of his fortunes and condition, it may be presumed the king would be found more accessible to negotiation than in former times—what value could be set on a consent at variance with the known principles of his reign?—or what dependence placed on his observance of conditions which he has hitherto so perseveringly repelled?

Still less could the hope for a moment be entertained that any conditions of safety were capable of being established on behalf of the inhabitants, who had appealed to His Majesty's Government for protection, and yet more hopeless the attempt to obtain pardon or safeguard for the chiefs, who had deemed it a duty paramount to every other obligation to become the medium of that appeal.

How far their complaints have been groundless, and their opposition licentious, or on the contrary their grievances bitterly and intolerably real, may now be judged by facts of unquestionable authenticity.

The wanton destruction of human life comprises or implies the existence of general oppression,—in conjunction with that no other proofs of the exercise of tyranny require to be specified,—and one single instance, of no distant date, will be acknowledged to include everything which is barbarous and unprincipled in public rule, and to pourtray the last stage of individual depravity and wickedness, the obliteration of every trace of conscience, and the complete extinction of human feeling.

Digitized by Google

In the deplorable fate of the wife and children of Eheylapola Adikar these assertions are fully substantiated, in which was exhibited the savage scene of four infant children—the youngest torn from the mother's breast—cruelly butchered, and their heads bruised in a mortar by the hands of their parent, succeeded by the execution of the woman herself and three females more,—whose limbs being bound, and a heavy stone tied round the neck of each, they were thrown into a lake and drowned.

It is not, however, that under an absolute government unproved suspicion must usurp the place of fair trial, and the fiat of the ruler stand instead of the decision of justice; it is not that a rash, violent, or unjust decree, or a revolting mode of execution, is here brought to view, nor the innocent suffering under the groundless imputation of guilt; but a bold contempt of every principle of justice, setting at nought all known grounds of punishment, dispensing with the necessity of accusation, and choosing for its victims helpless females uncharged with any offence and infants incapable of a crime.

Contemplating these atrocities, the impossibility of establishing with such a man any civilized relations, either of peace or war, ceases to be a subject of regret, since His Majesty's arms, hitherto employed in the generous purpose of relieving the oppressed, would be tarnished and disgraced by being instrumental to the restoration of a dominion exercised in a perpetual outrage to everything which is sacred in the constitution or functions of a legitimate government.

On these grounds His Excellency the Governor has acceded to the wishes of the chiefs and people of the Kandyan provinces, and a convention has in consequence been held, the result of which the following public Act is destined to record and proclaim.

PROCLAMATION OF 2ND MARCH, 1815.

AT a Convention held on the second day of March, in the year of Christ 1815, and the Cingalese year 1736, at the Palace in the city of Kandy, between His Excellency Lieut.-General Robert Brownrigg, Governor and Commander-in-Chief in and over the British settlements and territories in the island of Ceylon, acting in the name and on behalf of His Majesty George the Third, King, and His Royal Highness George, Prince of Wales, Regent, of the United Kingdom of Great Britain and Ireland, on the one part, and the adigars, dessaves, and other principal chiefs of the Kandyan provinces on behalf of the inhabitants, and in presence of the mohottales, coraals, vidaans, and other subordinate headmen from the several provinces, and of the people then and there assembled on the other part, it is agreed and established as follows:

1 That the cruelties and oppressions of the Malabar ruler, in the arbitrary and unjust infliction of bodily tortures and the pains of death without trial, and sometimes without an

accusation or the possibility of a crime, and in the general contempt and contravention of all civil rights, have become flagrant, enormous, and intolerable, the acts and maxim of his government being equally and entirely devoid of that justice which should secure the safety of his subjects, and of that good faith which might obtain a beneficial intercourse with the neighbouring settlements.

2 That the Rajah Sri Wikreme Rajah Sinha, by the habitual violation of the chief and most sacred duties of a Sovereign, has forfeited all claims to that title or the powers annexed to the same, and is declared fallen and deposed from the office of king; his family and relatives, whether in the ascending, descending, or collateral line, and whether by affinity or blood, are also for ever excluded from the throne, and all claim and title of the Malabar race to the dominion of the Kandyan provinces is abolished and extinguished.

3 That all male persons being or pretending to be relations of the late Rajah Sri Wikreme Rajah Sinha, either by affinity or blood, and whether in the ascending, descending, or collateral line, are hereby declared enemies to the government of the Kandyan provinces, and excluded and prohibited from entering those provinces on any pretence whatever, without a written permission for that purpose by the authority of the British Government, under the pains and penalties of martial law, which is hereby declared to be in force for that purpose; and all male persons of the Malabar caste now expelled from the said provinces are, under the same penalties, prohibited from returning, except with the permission before mentioned.

4 The dominion of the Kandyan provinces is vested in the Sovereign of the British Empire, and to be exercised through the Governors or Lieutenant-Governors of Ceylon for the time being, and their accredited agents, saving to the adigars, dessaves, mohottales, coraals, vidaans, and all other chief and subordinate native headmen, lawfully appointed by authority of the British Government, the rights, privileges, and powers of their respective offices, and to all classes of the people the safety of their persons and property, with their civil rights and immunities, according to the laws, institutions, and customs established and in force amongst them.

5 The religion of Boodho, professed by the chiefs and inhabitants of these provinces, is declared inviolable, and its rites, ministers, and places of worship are to be maintained and protected.

6 Every species of bodily torture, and all mutilation of limb, member, or organ, are prohibited and abolished.

10 Provided always that the operation of the several preceding clauses shall not be contravened by the provisions of any temporary or partial proclamation published during

Digitized by Google

the advance of the army; which provisions, in so far as incompatible with the said preceding articles, are hereby repealed.

11 The royal dues and revenues of the Kandyan provinces are to be managed and collected for His Majesty's use and the support of the provincial establishment, according to lawful custom, and under the direction and superintendence of the accredited agent or agents of the British Government.

12 His Excellency the Governor will adopt provisionally, and recommend to the confirmation of His Royal Highness the Prince Regent, in the name and on behalf of His Majesty, such dispositions in favour of the trade of these provinces as may facilitate the export of their products, and improve the returns, whether in money or in salt, cloths, or other commodities useful and desirable to the inhabitants of the Kandyan country.

Proclamation of 21st November, 1818.

(See Ordinance No. 4 of 1892.)

THE chiefs and people of the Kandyan nation, no longer able to endure the cruelties and oppressions which the late king Sri Wikreme Rajah Sinha tyrannically practised towards them, prayed the assistance of the British Government for their relief, and by a solemn act declared the late king deposed, and himself and all persons descending from or in any manner related to his family incapable of claiming or exercising royal authority within the Kandyan provinces, which were by the same solemn act ceded to the dominion of the British Sovereign.

2 The exercise of power by the representatives of His Britannic Majesty from the date of that convention, the 2nd March, 1815, till the hour that insurrection broke out in the month of October, 1817, was marked by the greatest mildness and forbearance towards all classes, the strictest attention to the protection and maintenance of the rites, ministers, and places of worship of the religion of Budhoo, and a general deference to the opinions of the chiefs, who were considered as the persons best able from their rank and knowledge to aid the Government in ensuring the happiness of the mass of its new subjects—in exacting either taxes or services for the State an extraordinary and unprecedented laxity was allowed to take place, in order that the country might with more ease recover from any evil effects sustained by the contrary practice of the late king: In assessing punishments for offences, even where a plot to subvert the Government was proved, the spirit which always characterizes the British rule was strongly to be contrasted with the ancient and frequent recurrence of capital executions, preceded by the most cruel and barbarous tortures.

Digitized by Google

3 Under this mild administration on the part of the British Government the country appeared to rest in peace; cultivation was increased, and Divine Providence blessed the exertions of the labourers and rewarded them by plenteous crops; yet all this time there were factious and intriguing spirits at work, seeking for an opportunity to subvert the Government, for no purpose but to assume to themselves absolute power over the lives and properties of the general mass of subjects, which by the equal justice of British authority were protected from their avarice or malicious cruelty.

4 These plotters against the State were found among the very persons who had been restored to honours and security by the sole intervention of British power, and the opportunity of raising disturbance was chosen when, relying on the merited gratitude of all orders of the Kandyan nation, the Government had diminished the number of troops; and the insurgent leaders, unconscious or forgetful of the extensive resources of the British empire, thought, in setting up the standard of rebellion, as easily to effect their purpose of expelling the English from the country, as the people had been deluded to prostrate before the phantom whose pretensions they espoused merely to cover their own ambitious views of subjecting the nation to their arbitrary will.

5 After more than a year of conflict, which has created misery and brought destruction on many, the efforts of the British Government and the bravery of His Majesty's troops have made manifest to the Kandyans the folly of resistance, and that in the Government alone resides the power of protecting them in the enjoyment of happiness; the flimsy veil which the rebel chiefs threw over their ambitious designs was torn aside by themselves, and the pageant whom the people were called to recognize as the descendant of the gods exposed as the offspring of a poor Cingalese empiric.

6 After such a display to the public of depraved artifice and injurious and unfeeling deception, the Government might reasonably hope that a sense of the misery brought on them by delusion should prevent the great body of the people from listening to any one who should attempt in future to seduce them into rebellion against its beneficent rule; but it is also incumbent on it, from a consideration of the circumstances which have passed and the evil consequences which have ensued on the blind obedience which the people have thought due to their chiefs instead of to the Sovereign of the country, to reform, by its inherent right, such parts of the practice of administration as, by occasioning the subject to lose sight of the majesty of the Royal Government, made him feel wholly dependent on the power of the various chiefs, which to be legal could only be derived to them by delegation from the sovereign authority of the country.

Digitized by Google

Insurrection (Kandy).

7 His Excellency the Governor therefore now calls to the mind of every person and of every class within these settlements that the sovereign majesty of the King of Great Britain and Ireland, exercised by his representative the Governor of Ceylon and his agents in the Kandyan provinces, is alone the source from which all power emanates, and to which obedience is due; that no chief who is not vested with authority or rank from this sovereign source is entitled to obedience or respect; and that without powers derived from Government no one can exercise jurisdiction of any kind, or inflict the slightest punishment; and finally, that every Kandyan, be he of the highest or lowest class, is secured in his life, liberty, and property from encroachment of any kind or by any person, and is only subject to the laws, which will be administered according to the ancient and established usages of the country, and in such manner and by such authorities and persons as in the name and on behalf of His Majesty is hereinafter declared.

Declaration of British supremacy.

Equal rights of every Kandyan subject.

8, 9 Have had their effect.

10 No person shall be considered entitled to execute office, either of the higher or lower class of headmen, unless thereto appointed by a written instrument signed, in respect to superior chiefs by His Excellency the Governor, and for inferior headmen by the honourable the resident, or provisionally by any agent of Government thereto duly authorized, excepting in certain villages or departments which will be allotted for personal services to the dessaves, in which the dessave shall as before have the sole privilege of making appointments.

Form of appointment to office.

11–15 Have had their effect.

16 As well the priest as all the ceremonies and processions of the Budhoo religion shall receive the respect which in former times was shown them; at the same time it is in nowise to be understood that the protection of Government is to be denied to the peaceable exercise by all other persons of the religion which they respectively profess, or to the erection under due license from His Excellency of places of worship in proper situations.

Religion.

Erection of places of worship.

17–20 Repealed by No. 4 of 1892.

21 The Governor, desirous of showing the adherence of Government to its stipulation in favour of the religion of the people, exempts all lands which now are the property of temples from all taxation whatever; but as certain inhabitants of those villages are liable to perform fixed gratuitous services also to the Crown, this obligation is to continue unaffected.

Temple lands exempted from taxation.

Reservation of gratuitous service from certain inhabitants of temple villages.

22 All lands also now belonging to the following chiefs, whose loyalty and adherence to the lawful Government, merits favour, viz.,

Mollegodde Maha Nileme,
Mollegodde Nileme,
Ratwatte Nileme,

Lands belonging to certain loyal chiefs exempted from tax.

Digitized by Google

Kadoogamoone Nileme,
Dehigamme Nileme,
Mulligamme Nileme, lately Dessave of Welasse,
Eknillegodde Nileme,
Mahawalatene Nileme,
Doloswalle Nileme,
Eheyleyagodde Nileme,
Katugaha the elder,
Katugaha the younger,
Damboolane Nileme,
Godeagedere Nileme,
Gonegodde Nileme, formerly Adikaram of Bintenne,

shall be free of duty during their lives, and that their heirs shall enjoy the same free of duty, excepting with regard to such as paid pingo duty, which shall now and hereafter pay one-tenth to the Government of the annual produce, unless when exempted under the next clause.

Lands of chiefs holding office exempted.

23 All lands belonging to chiefs holding offices either of the superior or inferior class, and of inferior headmen, shall during the time they are in office be free of duty.

24, 25 Have had their effect.

All presents prohibited.

Provisions to British officers, troops, or other servants of Government travelling, to be furnished for payment.

26 All presents to the Governor or other British authorities are strictly prohibited. In travelling, every officer, civil or military, chiefs, detachment of troops, or other servants of Government, on notice being given of their intended march or movement, are to be supplied with the provisions of the country in reasonable quantity and on payment being made for the same at the current price.

Remuneration for service of superior chiefs.

28 The services of the adigars, dessaves, and other superior chiefs to Government shall be compensated by fixed monthly salaries in addition to the exemption of their lands from taxation.

Remuneration to inferior chiefs.

29 The services of the inferior chiefs shall be compensated as above by exemption from taxation, and that they also receive one twentieth part of the revenue paddy which they shall collect from the people under them, to be allotted in such portion as the Board of Commissioners shall under the authority of Government regulate.

30-55 Repealed, or have had their effect.

Reservation of powers of making further provisions.

General obedience enjoined.

56 In all matters not provided for by this Proclamation or other Proclamations heretofore promulgated by the authority of the British Government, His Excellency reserves to himself and his successors the power of reforming abuses and making such provision as is necessary, beneficial, or desirable; he also reserves full power to alter the present provisions as may appear hereafter necessary and expedient, and he requires in His Majesty's name all officers, civil and military, all adigars, dessaves, and other chiefs, and all other His Majesty's subjects to be obedient, aiding and assisting in the execution of these or other his orders, as they shall answer the contrary at their peril.

Digitized by Google

Proclamation of 18th September, 1819.

Preamble.

WHEREAS by our Proclamation bearing date the 21st day of November, 1818, we did declare that all lands which then were the property of temples should be exempted from all taxation whatever, save and except that such of the inhabitants of those villages as were liable to perform fixed gratuitous services also to the Crown should still be liable thereto : And whereas it is necessary for the security of His Majesty's revenue that the extent of the lands herein above referred to, as the same stood at the date of the said Proclamation, should be correctly ascertained and registered, and that all subsequent donations or bequests to the temples of every description should only be made as was heretofore customary by and with the previous consent and license of the sovereign authority in these provinces :

Temple lands to be registered.

The persons having the charge of the revenues of every temple, whether wihare, dewale, or under any other denomination, and whether such persons be the priest, dewe-nileme, basnaike-nileme, kapurale, or by what other description they may be called, shall, and they are hereby required, to deliver in to the revenue commissioner, the agent of Government in the several provinces and districts, or according as the lands are situated in reference to the schedule hereto annexed, a list of all lands of all descriptions which did belong to the said temples, under their respective charge, at the date of the said Proclamation, with the extent thereof, and the mode whereby the same was acquired, within twelve months from this date ; whereupon the said lands shall be registered by the revenue commissioner or agent of Government, if he is satisfied that such lands are the property of the said temple, as such temple property, and entitled to the exemption from taxation in and by the said Proclamation granted ; and a certificate of such enregistration shall be granted by such revenue commissioner or agent of Government, the production of which shall alone be considered sufficient proof that such land is exempted from taxation.

Provided always that if the revenue commissioner or agent of Government is not satisfied that any land was the property of such temple by which it is claimed at the date of the said Proclamation, he shall refer the question to the consideration of the Board of Commissioners, who shall direct a proper course of inquiry into the validity of the claim, and report the same to us for our decision how the said land is to be considered.

It has not been, nor shall be hereafter lawful, to any inhabitant of these provinces to make either a donation or a bequest of any land whatsoever to or for the use of any temple, whether wihare, dewale, or otherwise called, without having first signified to us, through the honourable the resident, or through any resident agent of Government,

Digitized by Google

his or her desire to make such bequest or donation, and having received a license in writing to give or bequeath the same: And any land given or bequeathed contrary to this order shall not be considered as the property of a temple, but shall be given to the nearest heir of the person who has disobeyed the law by attempting to give and bequeath such land, provided he sues for the same before the judicial commissioner or agent of Government within twelve months from this date, or from the date of such gift or bequest, or from the time the possession has been taken for any temple; or else the land shall become forfeited to the Crown.

Proclamation of 14th July, 1821.

Sales of land to be final unless otherwise stipulated.

HAVING taken into our consideration the expediency of settling the rights of purchasers of land in the Kandyan provinces on a footing which shall give them an immediate and permanent interest in their property, and induce them to improve the same, which the practice that has obtained in some of the said provinces of allowing the seller to repurchase the land at any time in his life is evidently calculated to prevent: Do therefore proclaim and enact, that from and after the publication of these presents all sales of land made in writing according to the provisions of our Proclamation of the Twenty-eighth day of October, One thousand Eight hundred and Twenty, in the Kandyan provinces shall be final and conclusive, and neither the seller nor his or her heirs shall have any peculiar right to repurchase the same, unless an express stipulation reserving such privilege shall be inserted in the deed of sale.

Expenses of purchaser to be paid.

Such reservation when made in the deed of sale shall not be valid for any longer period than three years from the date of the said deed; and that the person who wished to exercise this right of repurchase shall pay to the person to whom he or she sold the land not only the original consideration but also all expenses incurred for increasing the value of the property, the amount of which will, in case of any dispute, be ascertained by appraisement on application to and under the sanction of the court in whose jurisdiction the land lies.

Redemption of land sold prior to this date.

And in respect to sales of land of a date prior to these presents, we do hereby order that no privilege of purchase shall in any part of these provinces be considered to attach to the seller unless he or she shall record his or her claim to the same in the court of the nearest agent of Government within six months from this date, and such privilege shall then only be competent to such seller within the term of three years from this date, and upon the conditions in the preceding clause contained.

No right of repurchase vests in the seller's heirs.

And no right of repurchase shall be considered to vest in the heirs of the seller, but the privilege is confined to him or herself personally.

Digitized by Google

Lands (Temple).

Proclamation of 21st May, 1822.

Preamble.

HAVING received information that doubts have been entertained as to the construction of the Proclamation of the Eighteenth day of September, One thousand Eight hundred and Nineteen, commanding the enregistration of lands which were on the Twenty-first day of November, One thousand Eight hundred and Eighteen, the property of temples in the Kandyan provinces; and that by some persons it has been imagined that although the registration should not have been effected within the period of twelve months by the said Proclamation prescribed, yet at a future period the said lands might be enregistered, and on such enregistration become exempt from taxes as temple property, and that therefore several persons having the superintendence and charge of lands rightly belonging to several temples in the Kandyan provinces have erroneously omitted to have the same registered: Do hereby proclaim and declare that we will permit applications to be made by any person having the superintendence or charge of wihares, dewales, or other temples in the Kandyan provinces to the agent of Government to whom the registry of temple lands of each division of the Kandyan provinces was entrusted by the said Proclamation of the Eighteenth day of September, One thousand Eight hundred and Nineteen, for permission to register any lands alleged to have belonged to the temple of which such person had the superintendence or charge on the Twenty-first day of November, One thousand Eight hundred and Eighteen, and which may have been hitherto omitted to be enregistered, provided such application be given in, in writing, on or before the first day of September next, and do contain a specification of the land, and the mode in which the temple acquired it, and the reason why the same was not before enregistered: And on such application being received the agent shall examine into the validity of the title to the land, and of the reason alleged for the application not having been before made, and shall report thereon, through the Board of Commissioners, to us for our decision if the land shall be allowed to be enregistered.

Application to register temple lands will be received if given in before 1st September, 1822.

No land will be exempted from taxation as temple land not registered.

And we do further declare, that no land shall be exempted from duty as temple property which shall not either have been registered under the Proclamation of the Eighteenth day of September, One thousand Eight hundred and Nineteen, or be allowed to be registered under the provisions of this Proclamation.

Digitized by Google

Regulation No. 15 of 1823.

(*See Ordinance No. 17 of 1887.*)

For making a general provision in respect to Property found.

Preamble.

WHEREAS it is necessary to make the provision enacted in respect to property found, by several of the regulations for the police of the different parts of this island, one of general regulation throughout the maritime districts:

Persons finding property to bring it to the constable or police vidahn, who is to report the same to the nearest sitting magistrate. Magistrate to publish the circumstance. If claimant appear. If no claimant.

2 Any person throughout the maritime districts of this island who may find any money or goods, of whatsoever description the same may be, do and shall bring the same forthwith to the constable or the police vidahn of the division or village in which the same may be found, which said constable or police vidahn shall forthwith report the circumstance to the nearest sitting magistrate, who shall cause public notice to be given of the same: And the finder shall, if no fraud appear to have been by him committed in the matter, receive from the person who may substantiate, within six months, a right to the property so found, one-tenth of the value thereof; and if no claimant shall appear or prove his right to the property within the period of six months, then the magistrate shall cause the same to be sold, if the same be not money, and shall pay one-half of the proceeds, or of the money, to the finder, and the remainder into the public treasury for the use of His Majesty.

Punishment for breach of this Regulation.

3 Any person who shall be convicted of a breach of this Regulation shall be subject to punishment by fine or imprisonment, either with or without being employed at hard labour, at the discretion and according to the powers of the court or magistrate before whom such conviction may take place.

25th October, 1823.

Proclamation of 14th January, 1826.

WE having received information that in many instances fictitious transfers of land have been made to persons in official employ for the purpose of evading the payment of taxes and duties upon such land, which practice is highly injurious to His Majesty's revenue, and being desirous to establish some fixed rules by the due observance of which the interests of the revenue may be protected, and the exemption of land really and truly belonging to chiefs and headmen from the payment of taxes and duties may be secured to such chiefs and headmen during their continuance in office, do hereby proclaim, command, and enact as follows:

1 From and after the first day of May next no exemption from the payment of any tax or duty shall be allowed to any chief or headman in official employ in respect to any land

Digitized by Google

belonging to any such chief or headman unless the same shall have been possessed by him for the full term of twelve months.

2 Every chief or headman in official employ claiming exemption from the payment of any tax or duty in respect to any land belonging to him, which shall have been possessed by him for the full term of twelve months, shall forthwith and from time to time as often as occasion may require apply to the cutcherry of the province in which such land is situate to have the same registered, and if he shall satisfy the revenue commissioner, if the land be in the provinces under the immediate control of the Board of Commissioners, or, if the land be in any other province, the agent of Government intrusted with the collection of the revenue in such province, by the production of the title-deed if the land has been acquired by transfer, or by such other evidence as may be required if the land has been acquired by inheritance, that such land is in truth and in fact absolutely and irrevocably the property of such chief or headman, and that he has possessed the same for the full term of twelve months, then, and in every such case, every such revenue commissioner and agent of Government is hereby authorized and required thereupon to register the same, and to grant to such chief or headman a certificate of such registration, which certificate shall exempt such chief or headman during his official employ from the payment of all taxes and duties upon all lands so registered.

3 And from and after the first day of May next no exemption from the payment of any tax or duty in respect to any land whatsoever shall be allowed to any chief or headman who shall not have obtained a certificate according to the provisions of this Proclamation that such land has been duly registered in the cutcherry of the province in which the same is situate.

4 And from and after the first day of May next, if any person or persons shall be concerned in any fictitious transfer of any land to any chief or headman for the purpose of evading the payment of any tax or duty upon such land, such persons shall be guilty of a misdemeanour, and upon conviction thereof before any competent jurisdiction the land belonging to such persons so fictitiously transferred shall be confiscated for the use of His Majesty, and the chief or headman so convicted of being concerned in taking such land upon such fictitious transfer shall be liable to a fine not exceeding four times the amount of tax or duty due upon such land, and to imprisonment till such fine be paid.

Digitized by Google

Order in Council of 12th April, 1832.

At the COURT OF SAINT JAMES'S, the 12th day of APRIL, 1832.

Present:

THE KING'S MOST EXCELLENT MAJESTY.

Lord Chancellor.	Viscount Palmerston.
Lord President.	Viscount Melbourne.
Lord Privy Seal.	Viscount Goderich.
Duke of Richmond.	Viscount Althorp.
Lord Steward.	Lord Holland.
Marquis of Winchester.	Mr. Grant.
Earl of Carlisle.	Sir James Graham, Bt.
Lord John Russell.	Mr. Stanley.

WHEREAS by the ancient laws and customs of the island of Ceylon, the native and Indian inhabitants thereof are bound to render various services to the Government in respect of the tenure of their land, or in respect of their caste or otherwise :

And whereas by the second clause of a Proclamation dated at Colombo the 3rd day of September, in the year 1801, the Governor of the said island recited, so far as regarded the maritime provinces of the said island, that he had seen by experience the absolute necessity of abolishing tenure by service and substituting a less oppressive and irregular mode of contribution to the service of the State :

And whereas by the fourth clause of the said Proclamation the said Governor of the said island proclaimed, so far as regarded the maritime provinces of the said island, that persons of whatever caste and condition should from that day continue subject to serve only on the special order of the said Governor and his successors, governors or lieutenant-governors of the said island, only according to their respective castes, and that on the receipt of adequate pay for such service :

And whereas by the 21st clause of a Proclamation dated at Kandy the 21st day of November, 1818, it was proclaimed amongst other things by the Governor of the said island, so far as regarded the Kandyan provinces of the said island, that the obligation of certain inhabitants of temple villages to perform fixed gratuitous services to the Crown was to continue unaffected :

And whereas by the 30th clause of the said last-mentioned Proclamation it was declared amongst other things by the Governor of the said island, so far as regarded the Kandyan provinces of the said island, that all persons should be liable to service for Government on the requisition of the Board of Commissioners and agents of Government according to their former customs and families or tenures

Digitized by Google

of their lands, on payment being made for their labour, it being well understood that the Board of Commissioners under the Governor's authority might commute such description of service as under their present circumstances was not usefully applicable to the public good to such other as might be beneficial; and provided further that the holding of lands duty free should be considered the payment for the service of the katepurule and atepattoo departments, and persons allotted to the dessaves' service, and also for the service to Government of certain persons of the temple villages, and in part for those which cut cinnamon, and also that the duty of clearing and making roads and putting up and repairing bridges should be considered a general gratuitous service falling on the districts through which the roads pass or wherein the bridges lie:

And whereas His late Majesty King George the Fourth, by a commission under the great seal of this United Kingdom, was pleased to authorize and appoint certain commissioners therein named to repair to the said island, there to examine into all the laws, regulations, and usages of the settlements in the said island, and into every other matter or thing in any way connected with the administration of the civil government thereof: And whereas the said commissioners have in pursuance of the said commission reported to His Majesty that various representations had been made to them by the aforesaid native and Indian inhabitants of the said island, complaining of the evils which they have suffered from the enforcement of the services aforesaid, and requesting relief: And whereas the native and Indian inhabitants as well of the said maritime provinces as of the said Kandyan provinces of the said island will be able to follow their own occupations with more profit to themselves, and to render their services to His Majesty more effectually and beneficially, if such services are rendered freely and for such remuneration as may be agreed upon between His Majesty's officers in the said island and the said inhabitants, instead of being enforced by punishment without remuneration, or with such remuneration only as may be fixed by His Majesty's officers in the said island without the consent of the said inhabitants: And whereas it hath been made to appear to His Majesty that the Governor of the said island and the Council of Government thereof are unanimously of opinion that the said system of forced labour ought not to be continued:

Now therefore His Majesty is pleased, with the advice of his Privy Council, to order, and it is hereby ordered, that the said fourth clause of the said Proclamation dated at Colombo the 3rd day of September, in the year 1801, and also so much of the said 21st and 30th clauses of the said Proclamation dated at Kandy the 21st day of November, 1818, as is hereinbefore recited, shall be repealed, abrogated, and annulled, and the same are hereby repealed, abrogated, and annulled accordingly.

Digitized by Google

Tenure by Service.

And for the removal of all doubts respecting the future exemption of the said native and Indian inhabitants of the said island from the obligation to render the said services to His Majesty, it is hereby ordered and declared, that none of His Majesty's native or Indian subjects within the said island shall be or are liable to render any service to His Majesty in respect to the tenure of their land, or in respect of their caste, or otherwise, to which His Majesty's subjects of European birth or descent are not liable, any law, custom, or regulation to the contrary notwithstanding:

Provided always that nothing herein contained shall be construed to affect the services which the tenants of any lands in any royal villages in the said Kandyan provinces of the said island are bound to render to His Majesty so long as they continue tenants of such lands upon such tenures, or the services which the tenants of any lands in any temple villages in the said Kandyan provinces of the said island may be bound to render to any temple so long as they continue tenants of such lands, or the service which the tenants of lands in any other villages in the said Kandyan provinces of the said island may be bound to render to the proprietors of such villages so long as they continue tenants of such lands.

And whereas by the fourth clause of a Regulation of Government, dated at Colombo the 21st day of September, 1829, entitled "A Regulation of Government No. 4 of 1829," it was enacted, so far as regarded the maritime provinces of the said island, by the Governor of the said island in Council, that, with a view to the encouragement of agricultural speculations, all labourers, of whatever nation, caste, or description, who should be *bonâ fide* employed in any plantation of coffee, cotton, sugar, indigo, opium, or silk, or in the manufacture of the produce thereof, should be exempt from being called out in the public service during the period for which they should be so *bonâ fide* employed, excepting during actual war and for the purpose of repelling invasion or during internal commotion:

And whereas the exemption from public service which is conferred by the said fourth clause of the said last-mentioned Regulation of Government upon persons employed in such manner as is therein mentioned, is, by the provisions of this present order secured to such persons in common with all other His Majesty's subjects within the said island: Now, therefore, His Majesty is pleased, with the advice of his Privy Council, to order the said fourth clause of the said last-mentioned Regulation of Government shall be repealed, abrogated, and annulled, and the same is hereby repealed, abrogated, and annulled:

And whereas by the third clause of a Regulation of Government, dated the 25th day of November, 1825, entitled "Regulation of Government No. 10 of 1825," it was enacted by the Governor of the said island in Council, that if it

Digitized by Google

Tenure by Service.

should appear to any such collector as was specified in the second clause of the said last-mentioned Regulation on or after the 1st day of July then next ensuing, that any person liable to a certain tax imposed by the first clause of the said last-mentioned Regulation upon every male inhabitant of the districts of Jaffnapatam, Mannar, and Trincomalie, and the Wanny provinces, which said districts and provinces are part of the said maritime provinces of the said island, had not complied with the exigencies of that Regulation, such person should be liable to be called on by such collector to work gratuitously at any public work which might be selected for a period not exceeding fourteen days, and that if any person should abscond from or evade being employed in such work he should be then liable to be committed by such collector to imprisonment and to be employed at hard labour for the said period of fourteen days, or such portion thereof as might remain after reckoning the days he might have voluntarily worked under the previous order of such collector :

And whereas it is expedient to repeal the said third clause of the said last-mentioned Regulation of Government : Now, therefore, His Majesty is pleased, with the advice of his Privy Council, to order, and it is hereby ordered, that the said third clause of the said last-mentioned Regulation of Government shall be repealed, abrogated, and annulled, and the same is hereby repealed, abrogated, and annulled accordingly ; and it is hereby ordered, that when any portion of the said tax so by the said first clause of the said last-mentioned Regulation imposed shall be in arrear and unpaid, the same shall be recovered from the person liable to pay the same in the same manner and by the same process as is used for the recovery of other debts due to His Majesty in the said maritime provinces of the said island.

And whereas by the first clause of a Regulation of Government, bearing date at Colombo the 1st day of May, in the year 1827, entitled " A Regulation No. 3 of 1827," in the preamble of which said last-mentioned Regulation of Government it was recited that evil-disposed persons had been from time to time employed to seduce and entice away Chalias from the settlements of His Majesty in the said island, all such Chalias being bound by their caste to serve His Majesty in the cultivation and preparation of cinnamon, it was amongst other things enacted by the Governor of the said island in Council, so far as regarded the said maritime provinces of the said island, that any person who should contract with, entice, persuade, or endeavour to seduce or encourage any Chalia to go away from the said island beyond seas, every person so offending should, upon conviction thereof before the Honourable the Supreme Court of Judicature, be sentenced by such court to transportation, or to fine or imprisonment at hard labour, according to the nature and circumstances of the offence and the condition of the offender, as the said Supreme Court should in its discretion think fit :

Digitized by Google

Tenure by Service.

And whereas it is expedient to repeal so much of the said first clause of the said last-mentioned Regulation of Government as is hereinbefore recited: Now, therefore, His Majesty is pleased, with the advice of his Privy Council, to order, and it is hereby ordered, that so much of the said first clause of the said last-mentioned Regulation of Government as is hereinbefore recited shall be repealed, abrogated, and annulled, and the same is hereby repealed, abrogated, and annulled.

And the Right Honourable Viscount Goderich, one of His Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

(Signed) WM. L. BATHURST.

Digitized by Google

THE CHARTER OF 1833.*

WILLIAM THE FOURTH, by the Grace of GOD of the United Kingdom of Great Britain and Ireland King, Defender of the Faith, to all to whom these presents shall come, Greeting.

Recital of Letters Patent.

WHEREAS his late Majesty King GEORGE THE THIRD by three several Charters and Letters Patent under the Great Seal of the United Kingdom of Great Britain and Ireland, bearing date respectively at Westminster the Eighteenth day of April in the year of our Lord One thousand Eight hundred and One, the Sixth day of August in the year of our Lord One thousand Eight hundred and Ten, and the Thirteenth day of October in the year of our Lord One thousand Eight hundred and Eleven, did establish within his said late Majesty's settlements of the island of Ceylon and the territories and dependencies thereof a certain court called the "Supreme Court of Judicature in the island of Ceylon," and a certain other court called "the High Court of Appeal in the island of Ceylon," and did make certain other provisions for the due administration of justice in the said settlements, territories, and dependencies. And whereas since the day on which the last of the said several Charters and Letters Patent bears date, a certain territory in the interior of the said island of Ceylon, called "the Kingdom of Kandy" or "the Kandyan Provinces of the island of Ceylon," hath become and now is subject to his Majesty, whereby the whole island of Ceylon with its dependencies has become and now is part of his Majesty's dominions. And whereas it is provided by each and every of the said several Charters and Letters Patent that nothing therein respectively contained or any act which should be done under the authority thereof respectively should extend or be deemed or construed to extend to prevent his said late Majesty, his heirs, and successors from making such further or other provision for the administration of justice throughout the said settlements and territories in the said island of Ceylon with their dependencies at his and their will and pleasure, and as circumstances might require; his said late Majesty meaning and intending fully and absolutely and to all intents and purposes whatsoever to reserve to himself, his heirs, and successors such and the same rights and powers in and over the said settlements, territories, and dependencies, and every part thereof, and especially touching the administration of justice therein, and all other matters and things in, and by the said several Charters and Letters Patent provided for, as if the said several Charters and Letters Patent had not been made, anything therein contained, or any law, custom, usage, matter, or thing whatsoever to the contrary in any wise notwithstanding. And whereas it is expedient to make more general and more effectual provision for the administration of justice

And annexation of the Kandyan Provinces.

And of power reserved in the former Charters for repealing them.

Necessity for a new Charter.

* See Ordinance No. 11 of 1868, itself repealed by Nos. 3 of 1883 and 1 of 1889. No. 3 of 1883 was repealed by No. 15 of 1898.

Digitized by Google

Old Charters repealed.

in the said island and its dependencies. Now know ye that We, upon full consideration of the premises and of Our certain knowledge and mere motion, have thought fit to revoke and annul, and We hereby revoke and annul each and every of the said Charters and Letters Patent, such revocation to take effect at and from after the time when (as hereinafter mentioned) this Our Charter will come into operation in Our said island.

Recital of subordinate courts.

2 And whereas in the several districts and provinces of the said island there now are several courts appointed to administer justice by the exercise of original jurisdiction to the inhabitants of the said districts and provinces, known respectively by the names and titles of the Provincial Courts, the Courts of the Sitting Magistrates, the Court of the Judicial Commissioner, the Court of the Judicial Agent, the Courts of the Agents of Government, the Revenue Courts, and the Court of the Sitting Magistrate of the Mahabadde; and whereas such courts differ among themselves in respect of their constitution, of their rules of procedure, and of the kinds and degrees of the jurisdictions which they exercise within the limits of their respective districts or provinces; now know ye that We, upon full consideration of the premises, have thought fit to direct, ordain, and appoint that the said provincial courts, the said courts of the sitting magistrates, the said court of the judicial commissioner, the said court of the judicial agent, the said courts of the agents of Government, the said revenue courts, and the said court of the sitting magistrate of the Mahabadde shall be, and the same are hereby respectively abolished, such abolition to take effect at and from after the time when (as hereinafter mentioned) this Our Charter will come into operation in Our said island.

Such courts abolished.

Reciting courts of appellate jurisdiction.

3 And whereas the Governor of Our said island for the time being, and the said court of the judicial commissioner, have hitherto exercised an appellate jurisdiction for the administration of justice in certain cases arising in the Kandyan Provinces of Our said island; and whereas certain courts called the minor courts of appeal, and certain courts called the minor courts of appeal from revenue cases, have hitherto exercised an appellate jurisdiction for the administration of justice in certain cases arising in the Maritime Provinces of the said island; and whereas the existence of several independent appellate judicatures in the said island tends to introduce uncertainty into the administration of justice there: now know ye that We, upon full consideration of the premises, have thought fit to direct and ordain, and do hereby direct and ordain, that the said appellate jurisdictions of the Governor of the said island and of the said court of the judicial commissioner respectively shall be, and the same are hereby respectively abolished; and that the said minor courts of appeal and the said minor court of appeal for revenue cases and such their appellate jurisdiction shall be and the same are hereby abolished.

Uncertainty thence arising.

Abolition of such appellate courts.

The courts hereby erected to have an exclusive jurisdiction.

4 And to provide for the administration of justice hereafter in Our said island, Our will and pleasure is, and We do hereby direct, that the entire administration of justice, civil and criminal therein, shall be vested exclusively in the courts erected and constituted by this Our Charter, and in such other

Saving the rights

Digitized by Google

courts as may be holden within the said island under any commission issued or to be issued in pursuance of the statutes in that case made and provided for the trial of offences committed on the seas or within the jurisdiction of Our Lord High Admiral or the commissioners for executing his office, or under any commission issued or to be issued by Our Lord High Admiral or by the commissioners for executing his office for the time being; and it is Our pleasure, and We hereby declare, that it is not, and shall not be, competent to the Governor of Our said island by any law or Ordinance to be by him made, with the advice of the Legislative Council thereof, or otherwise howsoever, to constitute or establish any court for the administration of justice in any case, civil or criminal, save as hereinafter is expressly saved and provided. Provided, nevertheless, and We do hereby declare that nothing herein contained shall extend, or be construed to extend to prevent any persons from submitting their differences to the arbitration of certain assemblies of the inhabitants of villages known in Our said island by the name of Gangsabes.

of the court of Vice Admiralty, and the piracy commission court.

The Governor may not establish courts.

Exception.

5 And We do hereby grant, direct, and appoint that there shall be within the said island of Ceylon one Supreme Court, which shall be called "the Supreme Court of the island of Ceylon."

Supreme Court established.

6 And We do direct and appoint that the said Supreme Court of the island of Ceylon shall consist of and be holden by and before one Chief Justice and two puisne justices, and that the Chief Justice shall be called and known by the name and style of "the Chief Justice of the island of Ceylon," and that the said Chief Justice and puisne justices shall from time to time be nominated and appointed to such their offices by letters patent to be issued under the public seal of the said island, in pursuance of warrants to be from time to time issued by Us, Our heirs, and successors, under Our or their sign manual, and shall hold such their offices during the pleasure of Us, Our heirs, and successors.

To consist of a Chief Justice and two puisne judges.

Titles of the Chief Justice.

Judges how to be appointed.

7 And We do further direct and appoint that upon the death, resignation, sickness, or incapacity of the said Chief Justice or any of the said puisne justices, or in case of the absence of any of them from the said island, or in case of any such suspension from office as hereinafter mentioned of any such Chief Justice or puisne justice, it shall and may be lawful to and for the Governor of Our said island for the time being, by letters patent to be by him for that purpose made and issued under the public seal of the said island, to nominate and appoint some fit and proper person or persons to act as and in the place and instead of any such Chief Justice or puisne justice so dying, or resigning, or labouring under such sickness or incapacity as aforesaid, or being so absent as aforesaid from the said colony, or being so suspended, until the vacancy or vacancies so created by any such death or resignation, or sickness, or incapacity, or absence, or suspension, shall be supplied by a new appointment to be made in manner aforesaid, or until the Chief Justice or puisne justice so becoming sick, or incapable, or being absent, or suspended as aforesaid, shall resume such his office and enter into the discharge of the duties thereof.

The Governor may provisionally appoint judges in cases of death, resignation, incapacity, absence, or suspension.

39-00 Digitized by Google

The Governor when authorized to suspend a judge.

8 And whereas cases may arise in which it may seem necessary to Our Governor for the time being of Our said island that a judge of the said court should be suspended from the exercise of his functions therein provisionally, until Our pleasure can be known: And it is expedient that no such act of suspension should take place except upon the most evident necessity and after the most mature deliberation, and that in any such event the judge who may be so suspended should receive the most early, complete, and authentic information of the grounds of such proceedings against him: We do therefore declare, direct, and appoint that it shall and may be lawful for the Governor of Our said island for the time being, by any order or orders to be by him for that purpose made and issued under the public seal of the said island, with the advice and consent of the Executive Council of the said island, or the major part of them, upon proof of the misconduct or incapacity of any such Chief Justice or puisne justice as aforesaid, but not otherwise, to suspend him from such his office and from the discharge of the duties thereof: provided that in every such case the said Governor shall immediately report for Our information through one of Our principal Secretaries of State the grounds and causes of such suspension; and provided also that a full statement be entered on the minutes of the said Executive Council of the grounds of such proceeding and of the evidence upon which the same may be founded; a full copy of which minutes and evidence shall by such Governor be transmitted to such judge, together with the order suspending him from such his office. And We do hereby reserve to Us, Our heirs, and successors, with the advice of Our or their Privy Council, full power and authority to confirm or to disallow any such suspension from office as aforesaid of any such Chief Justice or puisne justice.

Rules to be observed in such case.

Rank of the Chief Justice.

9 And We do hereby give and grant to Our said Chief Justice for the time being rank and precedence above and before all Our subjects whomsoever within the said island and its dependencies, excepting the Governor or Lieutenant-Governor for the time being thereof, and excepting such persons as by law or usage in England take place before Our Chief Justice of Our Court of King's Bench.

Rank of the puisne judges.

10 And We do hereby give and grant to the said puisne justices for the time being rank and precedence above and before all Our subjects whomsoever within the said island and its dependencies, excepting the Governor or Lieutenant-Governor for the time being thereof, the said Chief Justice, and the officer for the time being commanding Our forces in the said island and its dependencies, and excepting such persons as by law or usage in England take place before our puisne justices of Our Court of King's Bench; and We do hereby declare that the said puisne justices shall take rank and precedence between themselves according to the priority of their appointments respectively.

Supreme Court to have a seal.

11 And We do further grant, direct, ordain, and appoint that the said Supreme Court of the island of Ceylon shall have and use, as occasion may require, a seal bearing a device and impression of our royal arms, with an exergue or label

Digitized by Google

surrounding the same with this inscription, "The Seal of the Supreme Court of the island of Ceylon," and that the said seal shall be delivered to and shall be kept in the custody of the said Chief Justice with full liberty to deliver the same to any puisne justice of the said court for any temporary purpose; and in case of the vacancy of or suspension from the office of the Chief Justice, the same shall be delivered over to and kept in the custody of such person as shall be appointed by the said Governor of the said island to act as and in the place and stead of the Chief Justice.

The custody of the seal.

12 And We do further direct and appoint that no such Chief Justice or puisne justice as aforesaid shall be capable of accepting, taking, or performing any other office, place of profit, or emolument within the said island, on pain that the acceptance of such other office as aforesaid shall be *ipso facto* an avoidance of such his office of Chief Justice or puisne justice, as the case may be, and the salary thereof shall cease accordingly from the time of such acceptance of any other office or place: provided, nevertheless, that no such Chief Justice or puisne justice shall be rendered incapable of holding his office, or shall forfeit his salary, by accepting the office of Judge of the Court of Vice Admiralty in the said island, or of commissioner for the trial and adjudication of prize causes and other maritime questions arising in India.

Judges incapable of holding other offices of profit.

Exception.

13 And We do hereby constitute and appoint Our trusty and well-beloved Sir Charles Marshall, Knight, to be the first Chief Justice of the said Supreme Court, and Our trusty and well-beloved William Rough, Esquire, Serjeant-at-Law, to be the Senior Puisne Justice of the said Supreme Court, and Our trusty and well-beloved William Norris, Esquire, to be the Second Puisne Justice of the said Supreme Court.

Appointment of the judges by name.

14 And We do hereby direct, ordain, appoint, and declare that there shall be attached and belong to the said court an officer to be styled the registrar and keeper of records of the said court, and such and so many other officers as to Our Chief Justice of the said court for the time being from time to time appear to be necessary for the administration of justice, and the due execution of the powers and authorities which are granted and committed to the said court by these Our Letters Patent: provided, nevertheless, that no office shall be created in the said court unless the Governor of the said island for the time being shall first signify his approbation thereof to the said Chief Justice for the time being in writing under the hand of such Governor.

Ministerial officers of the court: their number how to be determined.

15 And We do further direct and declare Our will to be that all the subordinate officers of the said court shall be appointed to such their offices by Us or by the Governor of the said island on Our behalf, by commissions to be for that purpose issued under the public seal of the said island: provided, nevertheless, that all persons who shall be attached to or hold any office in the said court as clerk or private secretary to any of the judges thereof shall be appointed to such office by the judge for the time being whom such person may so serve in any such capacity.

Ministerial officers how to be appointed.

The judges to appoint their own private secretaries.

16 And We do further direct and appoint that the several officers of the said Supreme Court shall hold their

Subordinate officers to hold

Digitized by Google

during pleasure of the King, but liable to suspension by the court.

respective offices during the pleasure of Us, Our heirs, and successors, and shall be subject to be suspended from their offices therein by the said court for misconduct or other sufficient cause.

Admission of advocates and proctors.

17 And We do hereby authorize and empower the said Supreme Court to admit and enrol as advocates or proctors in the said Supreme Court all such persons being of good repute as shall upon examination by one or more of the said justices of the said Supreme Court appear to be of competent knowledge and ability: provided always that whenever the said Supreme Court shall refuse to admit and enrol any person applying to be admitted and enrolled as an advocate or proctor in the said Supreme Court, the judges of the said court shall in open court assign and declare the reasons of refusal.

No person not so admitted capable of acting as such.

And We do direct and declare that no persons whatsoever not so admitted and enrolled as aforesaid shall be allowed to appear, plead, or act in the said Supreme Court for or on behalf of any other person being a suitor in the said court.

The island to be divided into three circuits.

18 And We do further declare Our pleasure to be, and do hereby ordain and appoint, that for the purpose of the administration of justice under this Our Charter the said island of Ceylon shall be divided into the district of Colombo and three circuits, to be called respectively the Northern Circuit, the Southern Circuit, and the Eastern Circuit;

Their limits described.

and that the said Northern Circuit shall comprise the district of Jaffna, together with the several districts which are parcel of the Maritime Provinces of the said island, and which lie to the westward of the Kandyan Provinces of the said island, between the said district of Jaffna and the district of Colombo; and that the said Southern Circuit shall comprise the district of the Mahagampattoo and all the districts parcel of the Maritime Provinces of the said island lying to the westward and southward of the Kandyan Provinces of the said island, between the district of the Mahagampattoo and the district of Colombo; and that the said Eastern Circuit shall comprise all the Kandyan Provinces of the said island and all the districts parcel of the Maritime Provinces of the said island lying to the eastward of the Kandyan Provinces of the said island, between the district of Jaffna and the district of Mahagampattoo.

The Governor on application from the judges may by Proclamation alter such limits.

Provided, nevertheless, that it shall be lawful for the Governor for the time being of Our said island on any application to him for that purpose made in writing under the hands of the judges for the time being of the said Supreme Court or the major part of them, but not otherwise, by any Proclamation or Proclamations to be from time to time for that purpose issued, to alter, as occasion may require, the before-mentioned division of the said island as aforesaid, and to establish any other division or divisions thereof for that purpose which may appear to the said Governor and the whole of the major part of such judges, more conducive to the public convenience and the effective administration of justice in the said island.

The Governor may subdivide the circuits into districts.

19 And We hereby authorize and require the said Governor for the time being of Our said island, with the concurrence of the judges of the said Supreme Court or the major part of them, but not otherwise, by any Proclamation

Digitized by Google

or Proclamations to be by him for that purpose from time to time issued, to subdivide into districts each of the circuits into which the said island, exclusive of the district of Colombo, is or shall be in manner aforesaid divided; and from time to time, with the like concurrence, but not otherwise, to revoke, alter, and amend any such Proclamation or Proclamations as occasion may require; and which appointment of the said circuits and districts shall be made in such a manner as may best consist with and promote the prompt and effectual administration of justice therein as hereinafter mentioned. Provided always that until the said circuits shall in manner aforesaid be divided into districts in pursuance of this Our Charter the existing divisions of Our said island comprised within the respective limits of the said circuits respectively shall for the purposes hereof be deemed and taken to be such districts as aforesaid.

Existing divisions to remain for the present.

District courts established.

20 And We do further grant, direct, and appoint that within each and every district of the said island there shall be one court to be called the district court of such district. And that every such district court shall be holden by and before one judge, to be called the district judge, and three assessors. And that every such district judge shall be appointed to such his office by Letters Patent to be for that purpose issued under the Public Seal of the said island by the Governor thereof for the time being, in pursuance of warrants to be for that purpose addressed to him by Us, Our heirs, and successors: provided that such Governor may and he is hereby authorized and required to issue such Letters Patent as aforesaid provisionally, and subject to the future signification of the pleasure of Us, Our heirs, and successors, and without any such warrant or warrants as aforesaid on any occasions on which it may be necessary to make any such appointment or appointments before the pleasure of Us, Our heirs, and successors can be known. And We do hereby declare that the said district judges respectively shall hold such their offices during the pleasure of Us, Our heirs, and successors.

District judges how to be appointed.

District judges to hold during pleasure.

Assessors how to be chosen.

21 And We do further direct and appoint that the beforementioned assessors shall be selected from amongst Our subjects inhabiting the said island, whether natives thereof or otherwise, and being respectively men of the full age of twenty-one years and upwards, and possessing such qualifications as shall from time to time be determined by any rules and orders of court to be made in the manner hereinafter mentioned, and not having been convicted of any infamous crime nor labouring under any such bodily or mental incapacity as would render them unfit for the discharge of that office. And We do hereby reserve to Ourselves, Our heirs, and successors the right of appointing in each of the said district courts one person to act as a permanent assessor, but in respect of all assessors until any such appointment shall be made, and after any such appointment shall be made in respect of all assessors not so appointed, it is Our pleasure, and We do hereby direct and declare, that they shall be selected, summoned, and required to serve in the said office in such manner as shall be provided by such rules and orders of court as are hereinafter particularly mentioned.

Right of appointing a permanent assessor in each district reserved.

Assessors to be chosen and summoned as before mentioned.

Digitized by Google

Appointment of subordinate officers of district courts.

22 And We do hereby further direct that the ministerial and other subordinate officers of the said district courts respectively, shall respectively be appointed to and shall hold such their offices therein in such and the like manner in every respect as is hereinbefore provided with regard to the ministerial and other officers of the said Supreme Court; and that the admission and enrolment of persons to appear, plead, or act in any of the said district courts as advocates or proctors shall be regulated and provided for by such general rules and orders of court as are hereinafter mentioned.

Admission of advocates and proctors in the district courts.

Supreme Court to be held at Colombo. Except for circuits. District courts to be holden at places to be appointed by the Governor

23 And We do further direct and appoint that the said Supreme Court shall be holden at Colombo in the said island, excepting for the purpose of such circuits as are hereinafter mentioned, and that every such district court as aforesaid shall be holden at such convenient place within every such district as the Governor for the time being of Our said island shall from time to time for that purpose appoint by any Proclamation or Proclamations to be by him in manner aforesaid issued for such division as aforesaid of the said island into districts.

Civil jurisdiction of district courts.

24 And We do further grant, direct, and appoint that each of the said district courts shall be a court of civil jurisdiction, and shall have cognizance of and full power to hear and determine all pleas, suits, and actions in which the party or parties defendant shall be resident within the district in which any such suit or action shall be brought, or in which the act, matter, or thing in respect of which any such suit or action shall be brought shall have been done or performed within such district. Provided, nevertheless, that no such district court as aforesaid shall be competent to hold jurisdiction of or to hear or to determine any cause, suit, or action wherein the judge of such court shall himself be a party, plaintiff, or defendant; but that every cause, suit, or action which according to the provisions aforesaid would have been cognizable in any district court if the judge of such court had not been a party thereto, shall in that case be cognizable in the court of any district immediately adjoining.

If the district judge be a party the court of the next adjoining district shall have cognizance of the cause.

Criminal jurisdiction of district courts.

25 And We do further grant, direct, and appoint that each of the said district courts shall be a court of criminal jurisdiction, and shall have full power and authority to inquire of all crimes and offences committed wholly or in part within the district to which such court may belong, and to hear, try, and determine all prosecutions which shall be commenced against any person or persons for or in respect of any such crimes or offences, or alleged crimes or offences. Provided always that such criminal jurisdiction as aforesaid shall not extend to any case in which the person or persons accused shall be charged with any crime which according to any law now or hereafter to be enforced within Our said island shall be punishable with death, or transportation, or banishment, or imprisonment for more than twelve calendar months, or by whipping exceeding one hundred lashes, or by fine exceeding ten pounds.

Digitized by Google

26 And We do further grant, direct, and appoint that each of the said district courts shall have the care and custody of the persons and estates of all idiots and lunatics and others of insane or nonsane mind resident within such districts respectively, with full power to appoint guardians and curators of all such persons and their estates, and to make order for the maintenance of such persons and the proper management of their estates, and to take proper securities for such management from such guardians and curators, and to call them to account and to charge them with any balance which may be due to any such persons as aforesaid or to their estates, and to enforce the payment thereof, and to take order for the secure investment of any such balances, and such guardians and curators from time to time to remove and replace as occasion may require.

District courts to have the custody of persons and estates of lunatics within the district.

27 And We do further give and grant to the said district courts respectively in their said respective districts full power and authority to appoint administrators of the estates and effects of any persons dying within such respective districts intestate, or who may not have by any last will or testament appointed any executor or trustee for the administration or execution thereof, and like power and authority to inquire into and determine upon the validity of any document or documents adduced before them as and for the last will and testament of any person who may have died within such districts respectively, and to record the same, and to grant probate thereof, with like power and authority to appoint administrators for the administration or execution of the trusts of any such last will or testament as aforesaid in cases where the executors or trustees thereby appointed shall not appear and take out probate thereof, or having appeared and taken out such probate shall by death or otherwise become incapable to carry any such trusts fully into execution. And We do further authorize and empower the said district courts in their said respective districts to take proper securities from all executors and administrators of the last wills and testaments of any deceased persons, or of the estates and effects of any persons who may have died intestate, for the faithful performance of such trusts, and for the proper accounting to such courts respectively for what may come to their hands or be by them expended in the execution thereof, with like power and authority to call all such executors and administrators to account and to charge them with any balances which may be due to the estates of any such deceased persons, and to enforce the payment thereof and to take order for the secure investment of any such balances, and such executors and administrators from time to time to remove and replace as occasion may require.

District courts to appoint administrators to the estates of intestates.

And to adjudicate upon the validity of wills.

And to grant probate.

And to appoint administrators.

And to take securities from executors and administrators.

And to call them to account and enforce the payment of or take security for balances.

And to remove and replace executors and administrators.

28 And whereas doubts might arise whether by virtue of the provisions aforesaid, and without an express authority in that behalf, the said district courts would be competent to entertain suits therein brought for the protection of Our revenue and for the punishment of offences committed against the revenue laws of Our said island. Now, therefore, for the removal of any such doubts, We do hereby expressly declare that all causes affecting Our revenue arising within

District courts to take cognizance of all revenue cases

Digitized by Google

Our said island, and all prosecutions for the punishment of offences committed against the revenue laws thereof, shall be cognizable within the said district courts respectively, in such and the same manner as any other suits or prosecutions. Saving, nevertheless, and reserving to all courts of Vice Admiralty established or to be established within Our said island, all such rights, powers, jurisdictions, and authority as are by law vested in them, as fully as if this Our Charter had not been made. Provided, nevertheless, that no such prosecution for any offence committed against the revenue laws shall be cognizable within any such district court in cases where the punishment may be of greater degree or amount than such district court can under the provisions aforesaid award upon prosecutions for any other offences.

Saving the rights of the courts of Vice Admiralty.

Limitation of jurisdiction in such cases.

Jurisdiction of district courts to be exclusive.

29 And We do further grant and declare that the several jurisdictions so vested as aforesaid in the said district courts is and shall be an exclusive jurisdiction, and shall not on any plea or pretext whatsoever be assumed or exercised by any other court, tribunal, or judge within Our said island, save and except in so far as cognizance of the same suits, causes, actions, prosecutions, matters, and things is hereinafter expressly given by way of appeal to the Supreme Court aforesaid, or to the respective judges thereof. And also save and except in so far as an original jurisdiction in certain suits, causes, actions, prosecutions, matters, and things is hereinafter vested in the said Supreme Court or in the respective judges thereof, and also save and except in as far as respects the jurisdiction of the court of Vice Admiralty in the said island.

Exception.

Judgments of district courts how to be pronounced.

30 And We do further direct and appoint that every final sentence or judgment of the said district courts respectively, and that every interlocutory order of the said courts having the effect of a final sentence or judgment, and that every order of any such court having the effect of postponing the final decision of any cause or prosecution there pending, and any other order which to the judge of any such court may appear of adequate importance, shall by such judge be pronounced in open court. And that such judge shall in all such cases state in the presence and hearing of the assessors before mentioned, what are the questions of law and of fact which have arisen for adjudication, and which are to be decided upon any such occasion, together with his opinion upon every such question, with the grounds and reasons of every such opinion. And that every such assessor shall also in open court and in the presence and hearing of the judge and the other assessors declare his opinion and deliver his vote upon each and every question which the judge shall have previously declared to have arisen for adjudication, whether such questions shall relate to any matter of law or to any matter of fact. Provided, nevertheless, that in case of any difference of opinion between any such judge and the majority or the whole of such assessors upon any question of law or of fact depending before any such district court, the opinion of such judge shall prevail, and shall be taken as the sentence, judgment, or order of the whole court, but in every such case a record shall be made and preserved among the records of

Assessors to give their opinions and votes.

In case of a difference of opinion that of the judge to prevail.

But record to be made of

Digitized by Google

the said court of the questions declared by the judge to have arisen for adjudication, and of the vote of such judge and of every such assessor upon each such question.

questions and votes.

31 And We do hereby grant, declare, direct, and appoint that the Supreme Court of the island of Ceylon shall be a court of appellate jurisdiction for the correction of all errors in fact or in law which shall be committed by the said respective district courts, and shall have sole and exclusive cognizance by way of appeal of all causes, suits, actions, prosecutions, matters, and things of which such district courts may, in pursuance of the provisions of this Our Charter or any of them, take cognizance by way of original jurisdiction. And We do further grant to the said Supreme Court power, jurisdiction, and authority to hold an original jurisdiction for inquiring of all crimes and offences committed throughout the said island, and for the hearing, trying, and determining all prosecutions which shall be commenced against any person or persons for or in respect of any such crimes or offences or alleged crimes or offences. And to provide for the due execution of the powers and authorities and jurisdictions so vested as aforesaid in the Supreme Court it is Our further pleasure, and We do direct, ordain, and appoint that civil and criminal sessions of the said Supreme Court shall be holden by some one of the judges thereof in each of the circuits into which Our said island is or shall be so divided as aforesaid.

Appellate jurisdiction of Supreme Court.

Original jurisdiction of Supreme Court.

Civil and criminal sessions of the Supreme Court how to be holden.

32 And We do further direct and appoint that such sessions as aforesaid of the said Supreme Court shall be holden twice in each year within the northern, southern, and eastern circuits of the said island respectively hereinbefore described or referred to, at such places within such respective circuits, and at such particular times in each year as the Governor for the time being of Our said island shall, after previous consultation with the judges of the said Supreme Court, by Proclamations to be by him from time to time for that purpose issued, direct and appoint. Provided always that the times and places for holding such civil and criminal sessions of the said Supreme Court on such circuits shall be so arranged as that all the judges of the said Supreme Court shall never at the same time be absent from Colombo, and that all such judges shall be resident at the same time at Colombo not less than one month twice in each year. And We do direct and appoint that the Chief Justice of the said court shall first choose the circuit on which he will proceed for the purposes aforesaid, and that the second choice shall be made by the senior puisne justice for the time being.

Such sessions to be holden twice a year in each circuit.

At times and places to be appointed by the Governor in consultation with the judges.

Choice of circuits by the judges.

33 And We do further direct, ordain, and appoint that at every civil sessions of the Supreme Court to be holden on any such circuit as aforesaid three assessors shall be associated with the judge, and that every criminal sessions of the Supreme Court to be holden on any such circuit shall be holden before such judge and a jury of thirteen men, which assessors and jurors shall be selected, summoned, and required to appear and serve in such manner and form as shall be provided by such general rules and orders of court as hereinafter mentioned.

At civil sessions of Supreme Court assessors to be associated with the judge.

At the criminal sessions thirteen jurors.

Digitized by Google

Appellate and original jurisdiction of the Supreme Court how to be exercised on circuit.

34 And We do will, ordain, and appoint that within each and every of the said circuits respectively all and every the appellate powers, jurisdictions, and authorities hereby vested in the said Supreme Court shall be exercised by the judge for the time being of such circuit and the assessors so to be associated with him as aforesaid, and that within each and every of the said circuits respectively all and every the original powers, jurisdictions, and authorities hereby vested in the said Supreme Court shall be exercised by the judge for the time being of such circuit, who upon the trial of any crimes made cognizable by the said Supreme Court by way of such original jurisdiction as aforesaid shall be associated with such jurors as aforesaid.

At civil sessions the court to hear all appeals from district courts of the circuit.

With power to remand causes for further hearing or new evidence.

New evidence may be admitted or rejected by the Supreme Court at such sessions.

35 And We do further direct and appoint that at every civil sessions of the said Supreme Court so to be holden as aforesaid on every such circuit, the said court shall proceed to hear and determine all appeals which may be then depending from any sentence, judgment, decree, or order of any district court within the limits of such circuit, and to affirm, reverse, correct, alter, and vary every such sentence, judgment, decree, or order according to law, and if necessary to remand to the district court for a further hearing or for the admission of any further evidence any cause, suit, or action in which any such appeal as aforesaid shall have been brought; and upon hearing every such appeal it shall also be competent to the said Supreme Court to receive and admit or to exclude and reject new evidence touching the matters at issue in any such original cause, suit, or action as justice may require.

With power to grant prohibitions, &c., to the district courts of the circuit and to transfer causes from one district court to another.

36 And We do further direct and appoint that the Supreme Court aforesaid at any civil sessions to be holden on any such circuit as aforesaid shall have full power and authority to grant and issue mandates in the nature of writs of *mandamus procedendo* and prohibition against any district court within the limits of such circuit, and to make order for the transfer of any cause, suit, or action depending in any one district court in such circuit to any other district court within the same circuit, if it shall be made to appear to the satisfaction of the said Supreme Court at any such civil sessions as aforesaid that there is any sufficient cause or reason to conclude that in such particular cause, suit, or action justice would not probably be done in the district court in which the same had so been commenced. And in every such case the district court to which any such cause, suit, or action shall be so transferred shall take cognizance thereof and have power and jurisdiction for the hearing, trial, and decision of the same as fully and effectually to all intents and purposes as the district court in which the same was originally brought could or might have had.

Form of proceeding at civil sessions of Supreme Court.

37 And We do further direct, declare, and appoint that the judge of the Supreme Court holding any such civil sessions thereof as aforesaid on any such circuit shall in open court state and declare in the presence and hearing of the assessors before mentioned what are the questions of law and of fact

Digitized by Google

arising for adjudication upon every appeal brought before the said Supreme Court at such sessions; and which are then to be decided, and shall then pronounce his opinion upon every such question, with the grounds and reasons of every such opinion; and that every such assessor shall thereupon also in open court and in the presence and hearing of such judge and the other assessors declare his opinion and deliver his vote upon such and every question which the judge shall have previously declared to have arisen for adjudication, whether such question shall relate to any matter of law or to any matter of fact. And in case of any difference of opinion between any such judge and the majority or the whole of such assessors upon any question of law or of fact depending upon such appeal, the opinion of such judge shall prevail and shall be taken as the sentence, judgment, or order of the whole court; but in every such case a record shall be made and preserved among the records of the said Supreme Court of the question declared by the judge to have arisen for adjudication, and of the vote of such judge and of every such assessor upon every such question.

At criminal sessions the Supreme Court to hear appeals from judgments of the district courts in criminal cases;

38 And We do further direct, ordain, and appoint that at every criminal sessions of the said Supreme Court to be holden on any such circuit as aforesaid such court shall proceed to hear and determine all appeals which may be then depending from any sentence or judgment pronounced by any district court within the limits of any such circuit in any criminal prosecution, and to affirm, reverse, correct, alter, and vary every such sentence and judgment according to law. And upon hearing every such appeal it shall also be competent to the said Supreme Court to receive and admit or to exclude and reject new evidence touching the matters at issue in any such original prosecution as justice may require; and it shall also be lawful for the said Supreme Court at any such criminal sessions as aforesaid to make order for the transfer of any prosecution depending in any one district court in such circuit to any other district court within the same circuit if it shall be made to appear to the satisfaction of the said Supreme Court at any such criminal sessions as aforesaid that there is any sufficient cause or reason to conclude that in such particular prosecutions justice would not probably be done in the district court in which the same had been so commenced. And in every such case the district court to which any such prosecution shall be so transferred shall take cognizance thereof, and shall have power and jurisdiction for the hearing, trial, and decision of the same as fully and effectually to all intents and purposes as the district court in which the same was originally brought could or might have had.

and to receive or reject new evidence.

Appeals in criminal cases.

39 And We do further declare and ordain that notwithstanding the right of appeal hereby given from the judgments and sentences of the said district courts upon such criminal prosecutions as aforesaid no such appeal shall have the effect of staying the execution of any sentence or judgment pronounced by any such district court upon any prosecution unless the judge of such district court shall in the exercise of his discretion see fit to make order for the stay of any such execution pending such appeal.

Digitized by Google

At criminal sessions Supreme Court to exercise its original jurisdiction.

40 And We do further direct, ordain, and appoint that at every criminal sessions of the said Supreme Court so to be holden as aforesaid on every such circuit the said Supreme Court shall inquire of all crimes and offences committed within the limits of any such circuit for the trial of which such original jurisdiction as aforesaid is by this Our Charter vested in the said Supreme Court, and which the King's Advocate or deputy King's advocate shall elect to prosecute before such Supreme Court, and shall hear, try, and determine all prosecutions which shall be commenced by the said King's Advocate or deputy King's advocate against any person or persons for or in respect of any such crimes or offences or alleged crimes or offences.

Offences to be prosecuted by information in the name of the Advocate fiscal.

Without a grand jury.

41 And We do further direct and ordain that all crimes and offences cognizable before any of the courts constituted by these presents or deriving authority from the same shall be prosecuted, and that all fines, penalties, and forfeitures recoverable therein to Our use shall be sued for and recovered in the name of Our Advocate fiscal of Our said island, and by him or by some deputy advocate fiscal by an information to be exhibited without the previous finding of any inquest by any grand jury or otherwise. Provided, nevertheless, that it shall be competent to the said Supreme Court by such rules and orders of court as after-mentioned to make any other and more convenient provision for the prosecuting before the said district courts breaches of the peace, petty assaults, and other minor offences of the like nature.

Questions of fact on criminal prosecutions at such sessions how to be decided.

42 And We do further direct and ordain that all questions of fact upon which issue shall be joined at any such criminal sessions as aforesaid of the said Supreme Court on any such circuit as aforesaid shall be decided by such jury of thirteen men as aforesaid. And that the verdict of such jury shall be pronounced in open court by the mouth of the foreman, and that if such jury shall not agree upon their verdict, then the verdict of the major part of such jury shall be received and taken as the verdict of the jury collectively.

All questions of law to be decided by the judge.

Who may reserve them for the decision of the whole court.

43 And We do further direct and ordain that all questions of law which shall arise for adjudication at any such criminal sessions as aforesaid of the said Supreme Court, in any such circuit as aforesaid, shall be decided by the judge presiding at such sessions, who shall pronounce his judgment thereupon in open court and assign the grounds and reasons of such judgment, saving, nevertheless, to every such judge the right of reserving such questions for the decision of the judges of the said Supreme Court collectively at their general sessions in manner hereinafter mentioned.

Sentence of death is to be respited till the case has been reported to the Governor.

44 And We do further appoint, declare, and direct that in every case where any person shall be adjudged to die by any sentence of the Supreme Court of Our said island at any such criminal sessions as aforesaid, the execution of such sentence shall be respited until the case of such person shall have been reported by the Chief Justice or puisne justice, who shall have presided at such trial, to the Governor of the said island for the time being, which report shall be made as soon after the passing of such sentence as conveniently may be.

Digitized by Google

45 And We do further appoint, declare, and direct that the judge on any such circuit as aforesaid holding the said criminal sessions of the said Supreme Court shall and may issue his mandate under his hand and directed to all and every of the fiscals or other keepers of prisons within the limits of his circuit to certify to the said judge the several persons then and there in any of their custody committed for and charged with any crimes or offences whatsoever. And the said fiscals or other keepers of prisons shall and are hereby required to make, certify, and transmit due returns to such mandate by specifying in a calendar or list to be annexed to such mandate respectively the time and times when all and every of the said persons so in their custody was or were committed, and by whose authority particularly, and on what charge or charges, crime or crimes, respectively, in writing. And to the said list or calendar shall also be annexed such information or informations upon oath as may have been taken against them or any of them, and be then remaining in the hands of the said fiscals or keepers of prisons, or true copies thereof attested by the said fiscals or keepers of prisons respectively. And if need be according to the tenor and exigency of such mandate such fiscals or keepers of prisons shall bring the said persons so in their custody or any of them before the said judge wheresoever the said judge shall then be holding the criminal sessions of the said Supreme Court, together with such witness or witnesses, whose name or names shall appear to be written or endorsed on the respective commitments, by virtue of which such prisoners or prisoner were or was delivered into their custody respectively, in order that such prisoners or prisoner may be dealt with according to law. Provided always that wherever any party or parties shall after the making out of any such calendar or list, and while such judge shall be holding the criminal sessions of the said Supreme Court in the town or place wherein such calendar or list was delivered, be apprehended or committed on any criminal charge, it shall and may be lawful for the officer of such Supreme Court to insert the name or names of such person or persons in such calendar or list.

The judge at the criminal sessions is to issue a mandate to all jailers within the circuits to return a calendar of prisoners.

The contents of the calendar.

The informations on oath against any prisoner to be attached to it.

The jailers to bring prisoners before the judge holding such criminal sessions.

With the witnesses whose names may be endorsed on the commitments.

Proviso for the insertion in the calendar of the names of persons committed during the sessions.

46 And We do further direct, declare, and appoint that any judge of the Supreme Court remaining at Colombo shall within the limits of the district of Colombo exercise the same jurisdiction and hold such and the same civil and criminal sessions as the said judges of the Supreme Court are by these presents directed, appointed, and ordained to exercise and to hold on their respective circuits within the limits of their respective circuits.

The judge at Colombo to hold the civil and criminal sessions of the Supreme Court for that district.

47 And We do further ordain and appoint that whenever any question of law, pleading, evidence, or practice shall arise for adjudication at any civil or criminal sessions of the said Supreme Court at any such circuit as aforesaid, or within the said district of Colombo, which shall appear to the judge presiding at such sessions to be a question of doubt and difficulty, it shall be lawful for such judge to reserve such question of law, pleading, evidence, or practice for the decision

Judge on circuit or at Colombo may reserve questions of law, &c., for the whole court, in general sessions.

Digitized by Google

of the judges of the said Supreme Court collectively, and to report any question so reserved to the said judges at some general sessions of the said Supreme Court to be held for that purpose as hereinafter mentioned. And We do further direct and appoint that the judges of the said Supreme Court shall, from time to time as occasion may require, collectively hold a general sessions at Colombo to hear and inquire of any questions of law, pleading, evidence, or practice so reserved as aforesaid, and to decide the same according to law.

Judges to compare the records of district courts: if the practice vary, to prepare laws on questions of law or evidence, and rules of court on pleading or practice.

48 And We further authorize and require the respective judges of the said Supreme Court on such circuits as aforesaid, and at the sessions so to be holden for the district of Colombo, to inspect and examine the records of the different district courts. And if it shall appear to them that contradictory or inconsistent decisions have been given by different district courts or by the same district court upon different occasions upon any matters of law, evidence, pleading, or practice, then and in every such case the said judges of the Supreme Court shall report to the judges of the Supreme Court at Colombo, at such general sessions as aforesaid, any such contradictions or inconsistencies, and the said judges of the Supreme Court shall, after due consideration of the matters so brought before them, prepare the draft of such a declaratory law upon any matter of law or evidence in respect to which such contradictory or inconsistent decisions shall have been given, as the occasion shall appear to them to require, and shall transmit such draft under the seal of the said court to the Governor for the time being of Our said island, who shall thereupon lay the draft of such declaratory law before the Legislative Council of the said island for their consideration. And We further direct and ordain that the said judges of the Supreme Court shall, in pursuance of the powers hereinafter vested in them, after due consideration of any reports so to be made as aforesaid by any such judge of any such contradiction or inconsistency as aforesaid in any matter of pleading or practice, make or establish such general rules or orders of court for the removal of any doubts respecting any such matters as the occasion shall appear to them to require.

Supreme court, &c., may issue writs of *habeas corpus*;

49 And We do further ordain and appoint that the said Supreme Court or any judge thereof at any sessions so to be holden as aforesaid on any such circuit as aforesaid, or in the district of Colombo, or at any general sessions of the judges of the said court collectively, shall be and are hereby authorized to grant and issue mandates in the nature of writs of *habeas corpus*, and to grant or refuse such mandates to bring up the body of any person who shall be imprisoned within any part of the said island or its dependencies, and to discharge or remand any person so brought up or otherwise deal with such person according to law. And We do further direct and appoint that the said Supreme Court or any judge thereof at any sessions so to be holden on any such circuit as aforesaid, or in the district of Colombo, or at any general sessions of the said court collectively, shall be, and they and he are and is hereby authorized to grant and issue injunctions to prevent any irremediable mischief which might ensue

and injunctions;

Digitized by Google

before the party making application for such injunction could prevent the same by bringing an action in any district court; provided always that it shall not be lawful for the said Supreme Court nor for any judge thereof in any case to grant an injunction to prevent any person from suing or prosecuting a suit in any district court, or to prevent any party to any suit in any district court from appealing or prosecuting an appeal to any court of appeal, or to prevent any party to any suit in any court of original jurisdiction or in any court of appeal from insisting upon any ground of action, defence, or appeal.

but not to prevent parties from suing, defending, or appealing.

50 And whereas it may be expedient that the judges of the said Supreme Court of Colombo, previously to the commencement of any such circuits as aforesaid, should be enabled to inspect and examine the records of the said district courts in cases upon which appeals may have been entered: and it may also be convenient that with the consent of the litigant parties the hearing of such appeals should take place before the judges of the said court collectively at their general sessions at Colombo, and not at such circuits as aforesaid: and it may also be convenient that in certain cases the judges of the said Supreme Court collectively at such general sessions should be authorized to decide in a summary way, and without further argument, questions arising upon any such appeals: We do therefore further will, direct, ordain, and appoint that it shall be lawful for the judges of the said Supreme Court by such general rules and orders as hereinafter mentioned to require the said district courts to transmit to them at Colombo the records of such district courts in any cases upon which appeals may have been entered. And We do authorize and empower the judges of the said Supreme Court collectively at any such general sessions as aforesaid, with the consent of all the litigant parties, but not otherwise (save as hereinafter provided in cases appealed to Us in Our Privy Council), to hear any such appeals or to decide the same or any particular question or questions arising thereupon in a summary way and without further argument, and to remit any such records with such their final decision thereupon to such district courts to be by them carried into execution.

And may order the records of cases on appeal to be transmitted to Colombo; and to decide the same by consent at general sessions.

51 And whereas for carrying into effect the various provisions of this present Charter and for the more prompt and effectual administration of justice in Our said island, it is necessary that regulations should be made respecting the course and manner of proceeding to be observed and followed in all suits, actions, and criminal prosecutions and other proceedings whatsoever to be brought, commenced, had, or taken within the said district courts and the said Supreme Court respectively, which regulations cannot be properly made except by the judges of the said Supreme Court. We do therefore hereby further declare Our pleasure to be, and do will, ordain, direct, and appoint that it shall be lawful for the judges of the said Supreme Court collectively at any general sessions to be by them holden at Colombo as aforesaid from time to time to frame, constitute, and establish such general rules and orders of court as to them shall seem meet,

And may make rules of court;

Digitized by Google

as to the time and place of sessions;

touching and concerning the time and place of holding any general sessions of the judges of the said Supreme Court collectively; and any civil or criminal sessions of the said Supreme Court on any such circuits as aforesaid or in the district of Colombo, and the said several district courts, as shall not be inconsistent with the authority hereinbefore granted to the Governor of Our said island respecting the appointing of the times at which and the places to which the judges of the said Supreme Court shall perform their circuits, together with such general rules and orders as to them shall seem meet, and touching and concerning the form and manner of proceeding to be observed in the said Supreme Court at any general sessions, and at such civil and criminal sessions as aforesaid on such circuit as aforesaid or in the district of Colombo, and in such district courts respectively; and touching and concerning the practice and pleadings upon all actions, suits, and other matters both civil and criminal to be therein brought, the proceedings of the fiscals and other ministerial officers of the said courts respectively, the process of the said courts and the mode of executing the same, the qualifications, summoning, impannelling, and challenging of assessors, and the summoning, impannelling, and challenging of jurors, arrest on mesne process or in execution, the taking of bail, the duties of jailers and others charged with the custody of prisoners, in so far as respects the making due returns to the respective judges of the said Supreme Court of all prisoners in their custody, and respecting the mode of prosecuting such appeals as aforesaid from the said district courts, the admission of advocates and proctors in the said courts respectively, together with all such general rules and orders as may be necessary for giving full and complete effect to the provisions of this present Charter in whatsoever respects the form and manner of administering justice in the several courts hereby constituted, and all such rules, orders, and regulations from time to time to revoke, alter, amend, or renew as occasion may require. Provided always that no such rules, orders, and regulations shall be repugnant to this Our Charter. And that the same shall be so framed as to promote as far as may be the discovery of truth and economy and expedition in the despatch of the business of the said several courts respectively. And that the same be drawn up in plain, succinct, and compendious terms, avoiding all unnecessary repetitions and obscurity, and promulgated in the most public and authentic manner in the said island as long before the same shall operate and take effect as to such judges may appear practicable and convenient. And provided always that all such rules, orders, and regulations shall forthwith be transmitted to Us, Our heirs, and successors under the seal of the said court for Our or their approbation or disallowance.

and as to the procedure, civil and criminal, of the Supreme and district courts and of fiscals; and as to process, assessors, jurors, arrest, bail, and jailers; and as to appeals and the admission of advocates and proctors; not to be repugnant to this Charter; and to be transmitted for His Majesty's approval or disallowance.

Appeal to His Majesty in Council.

52 And We do further grant, ordain, direct, and appoint that it shall be lawful for any person or persons being a party or parties to any civil suit or action depending in the said Supreme Court to appeal to Us, Our heirs, and successors in Our or their Privy Council against any final judgment, decree, or sentence, or against any rule or order made in

Digitized by Google

any such civil suit or action, and having the effect of a final or definitive sentence, and which appeals shall be made subject to the rules and limitations following:

First.—That before any such appeal shall be so brought such judgment, decree, sentence, rule, or order shall be brought by way of review before the judges of the said Supreme Court collectively holding a general sessions at Colombo at which all the said judges of the said Supreme Court shall be present and assisting, which judges shall by such rules and orders as aforesaid regulate the form and manner of proceeding to be observed in bringing every such judgment, decree, sentence, rule, or order by way of review before them, and shall thereupon pronounce judgment according to law, the judgment of the majority of which judges shall be taken and recorded as the judgment of the said court collectively.

Cause to be first heard at general sessions of Supreme Court.

Secondly.—Every such judgment, decree, order, or sentence from which such an appeal shall be admitted to Us, Our heirs, and successors as aforesaid shall be given or pronounced for or in respect of a sum or matter at issue above the amount or value of five hundred pounds sterling, or shall involve direcly or indirectly the title to property or to some civil right exceeding the value of five hundred pounds sterling.

Amount appealable.

Thirdly.—The person or persons feeling aggrieved by such judgment, decree, order, or sentence shall, within fourteen days next after the same shall have been pronounced, made, or given, apply to the said Supreme Court at such general sessions as aforesaid by petition for leave to appeal therefrom to Us, Our heirs, and successors in Our or their Privy Council.

Application for leave to appeal to be made within fourteen days.

Fourthly.—If such leave to appeal shall be prayed by the party or parties who is or are adjudged to pay any sum of money or to perform any duty, the said Supreme Court shall direct that the judgment, decree, or sentence appealed from shall be carried into execution if the party or parties respondent shall give security for the immediate performance of any judgment, decree, or sentence which may be pronounced or made by Us, Our heirs, and successors in Our or their Privy Council upon any such appeal, and until such security be given the execution of the judgment, decree, order, or sentence appealed from shall be stayed.

Judgment to be executed on securities being given for restitution.

Fifthly.—Provided, nevertheless, that if the party or parties appellant shall establish to the satisfaction of the said Supreme Court that real and substantial justice requires that pending such appeals execution should be stayed. it shall be lawful for such Supreme Court to order the execution of such judgment, decree, order, or sentence to be stayed pending such appeal, if the party or parties appellant shall give security for the immediate performance of any judgment, decree, or sentence which may be pronounced or made by Us, Our heirs, or successors, in Our or their Privy Council upon any such appeal.

Court may stay execution when justice requires it, appellant giving security.

Sixthly.—In all cases security shall also be given by the party or parties appellant for the prosecution of the appeal and for the payment of all such costs as may be awarded by Us, Our heirs, and successors to the party or parties respondent.

Appellant to give security for prosecution of appeals and payment of costs.

Digitized by Google

Court to determine security.

Seventhly.—The court from which any such appeal as aforesaid shall be brought shall, subject to the conditions hereinafter mentioned, determine the nature, amount, and sufficiency of the several securities so to be taken as aforesaid.

If title to immovable property be subject of appeal security not required; if occupation, how to be determined.

Eighthly.—Provided, nevertheless, that in any case where the subject of litigation shall consist of immovable property, and the judgment, decree, order, or sentence appealed from shall not change, affect, or relate to the actual occupation thereof, no security shall be demanded either from the party or parties respondent, or from the party or parties appellant for the performance of the judgment or sentence to be pronounced or made upon such appeal, but if such judgment, decree, order, or sentence shall change, affect, or relate to the occupation of any such property, then such security shall not be of greater amount than may be necessary to secure the restitution free from all damage or loss of such property or of the intermediate profit which pending any such appeal may probably accrue from the intermediate occupation thereof.

If movable property be the subject of appeal, bond to be given.

Ninthly.—In any case where the subject of litigation shall consist of money or other chattels or of any personal debt or demand, the security to be demanded either from the party or parties respondent, or from the party or parties appellant, for the performance of the judgment or sentence to be pronounced or made upon such appeal, shall be either a bond to be entered into in the amount or value of such subject of litigation by one or more sufficient surety or sureties, or such security shall be given by way of mortgage or voluntary condemnation of or upon some immovable property situate and being within such island, and being of the full value of such subject of litigation over and above the amount of all mortgages and charges of whatever nature upon or affecting the same.

Security for prosecution of appeal never to exceed £300.

Tenthly.—The security to be given by the party or parties appellant for the prosecution of the appeal and for the payment of costs shall in no case exceed the sum of three hundred pounds sterling, and shall be given either by such surety or sureties, or by such mortgage or voluntary condemnation as aforesaid.

Appellant to be allowed three months to enter into securities.

Eleventhly.—If the security to be given by the party or parties appellant for the prosecution of the appeal and for the payment of such costs as may be awarded shall in manner aforesaid be completed within three months from the date of the petition for leave to appeal, then and not otherwise the said Supreme Court shall make an order allowing such appeal, and the party or parties appellant shall be at liberty to prefer and prosecute his, her, or their appeal to Us, Our heirs, and successors in Our or their Privy Council in such manner and under such rules as are observed in appeals made to Us in Our Privy Council from our plantations or colonies.

Application may be made to His Majesty in Council against orders on the

Twelfthly.—Provided, nevertheless, that any person or persons feeling aggrieved by any order which may be made by, or by any proceedings of the said Supreme Court respecting the security to be taken upon any such appeal as

Digitized by Google

aforesaid, shall be and is hereby authorized by his, her, or their petition to Us in Our Privy Council to apply for redress in their premises.

subject of securities.

53 Provided always and We do further ordain, direct, and declare that nothing herein contained doth or shall extend to take away or abridge the undoubted right or authority of Us, Our heirs, and successors to admit and receive any appeal from any judgment, decree, sentence, or order of the said Supreme Court on the humble petition of any person or persons aggrieved thereby in any case in which, and subject to any conditions or restrictions upon and under which, it may seem meet to Us, Our heirs, and successors so to admit and receive any such appeal.

Reservation to His Majesty of the right of admitting appeals without regard to these rules.

54 And We do further direct and ordain that in all cases of appeal allowed by the said Supreme Court or by Us, Our heirs, and successors such court shall, on the application and at the costs of the party or parties appellant, certify and transmit to Us, Our heirs, and successors in Our or their Privy Council a true and exact copy of all proceedings, evidence, judgments, decrees, and orders had or made in such causes so appealed, so far as the same have relation to the matter of appeal, such copies to be certified under the seal of the said court.

Transcripts of records to be transmitted to His Majesty in Council.

55 And We do further ordain and direct that the said Supreme Court shall in all cases of appeal to Us, Our heirs, and successors conform to, execute, and carry into immediate effect such judgment and orders as We, Our heirs, and successors in Our or their Privy Council shall make thereupon, in such manner as any original judgment or decree of the said Supreme Court can or may be executed.

Supreme Court to execute judgments pronounced by His Majesty in Council on appeal.

56 And We do further ordain and direct that all laws, customs, and usages now or at any time heretofore established or in force in the said island, so far as such laws or usages are in any wise repugnant to or at variance with this present Charter shall be, and the same are hereby revoked, abrogated, rescinded, and annulled.

Revocation of all laws repugnant to this Charter.

57 And We do further declare that for the purpose and within the meaning of the present Charter any person lawfully administering for the time being the government of the said island shall be deemed and taken to be the Governor thereof.

Definition of the title "Governor."

58 And We do further ordain and direct that at the expiration of two calendar months next after the arrival within the said island of these presents, or at such earlier period as the Governor for the time being of the said island shall by a Proclamation to be for that purpose issued, appoint, this Our Charter shall come into operation within the said island, and from that time forward every suit, action, complaint, matter, or thing which shall be then depending before any court administering justice by original or appellate jurisdiction in the said island and its dependencies shall and

Governor to fix the time at which the Charter is to come into operation, when all suits pending are to be transferred to the new limits.

Digitized by Google

may be proceeded upon in the court in which it ought to have been instituted, or to which it ought to have been carried up in appeal if it had been instituted or carried up in appeal after the time when the provisions herein contained shall have come into operation, and all proceedings which shall hereafter be had in such suit, action, complaint, matter, or thing respectively shall be conducted in like manner as if such suit, action, complaint, matter, or thing had been instituted or carried up in appeal in or to such last-mentioned court, and all the records, muniments, and proceedings whatsoever belonging or pertaining to any such suit, action, complaint, matter, or thing shall, when the provisions herein contained shall have come into operation, be delivered over by the court in which such suit, action, complaint, matter, or thing shall be then depending to the court in or to which such suit, action, complaint, matter, or thing ought to have been instituted or carried up in appeal if it had been instituted or carried up in appeal after the time when the provisions herein contained shall have come into operation.

All persons to aid in the execution of the Charter.

59 And We do hereby strictly charge and command all Governors, commanders, magistrates, ministers (civil and military), and all Our liege subjects within and belonging to the said island and its dependencies, that in the execution of the several powers, jurisdictions, and authorities hereby granted, made, given, or created, they be aiding and assisting and obedient in all things, as they will answer the contrary at their peril.

Reservation of right to revoke and amend the Charter.

60 Provided always that nothing in these presents contained or any act which shall be done under the authority thereof, shall extend or be deemed or construed to extend to prevent Us, Our heirs, and successors by any other Letters Patent to be by Us or them from time to time for that purpose issued under the Great Seal of the United Kingdom from revoking this Our Charter or any part thereof, or from making such further or other provision for the administration of justice throughout the said island and its dependencies at Our and their will and pleasure as circumstances may require; We meaning and intending fully and absolutely to all intents and purposes whatsoever to reserve to Ourselves, Our heirs, and successors such and the same rights and powers in and over the said island and its dependences, and especially touching the administration of justice therein and all other matters and things in and by these presents provided for, as if these presents had not been made, anything in these presents contained, or any law, custom, usage, matter, or thing whatsoever to the contrary in any wise notwithstanding.

In witness whereof We have caused these Our letters to be made patent, witness Ourself at Westminster the Eighteenth day of February, in the third year of Our Reign.

By writ of Privy Seal,

BATHURST.

Digitized by Google

ORDINANCES.

No. 5 of 1839.

To regulate the printing and publishing of Newspapers in this Colony.

Preamble.

WHEREAS it is expedient to regulate the printing and publishing of newspapers in this colony :

No person to print or publish a newspaper until a declaration be made and delivered at the office of the Colonial Secretary.

1 No person shall print or publish, or shall cause to be printed or published, any newspaper in this colony until there shall have been delivered at the office of the Colonial Secretary in Colombo a declaration in writing, setting forth the title of the newspaper to which the same shall relate, and a true description of the house or building wherein such newspaper shall be intended to be printed and published by, for, or on behalf of the proprietor thereof, and also the true name, addition, and place of abode of every person who is intended to be a printer or to conduct the actual printing of such newspaper, and of every person who is intended to be the publisher thereof, and of every person who shall be a proprietor of such newspaper ; and every such declaration shall be made before some district judge, and signed by every person named therein, as printer, publisher, or proprietor of the newspaper to which such declaration shall relate ; and whenever and so often as any printer, publisher, or person conducting the actual printing of such newspaper named in such declaration shall be changed or shall change his place of abode, and whenever and so often as any proprietor named in such declaration shall be changed or shall intend departing from this colony, a declaration of such change as aforesaid, or of such intended departure from this colony, shall be made before a district court, and delivered into the office of the Colonial Secretary, and also whenever and so often as the title of any such newspaper, or the printing office, or the place of publication thereof shall be changed : And if any person shall knowingly and wilfully sign and make any such declaration, in which shall be inserted or set forth the name, addition, or place of abode of any person as a proprietor, publisher, printer, or conductor of the actual printing of any newspaper to which such declaration shall relate, who shall not be a proprietor, printer, publisher, or conductor thereof, or from which shall be omitted the name, addition, or place of abode of any proprietor, publisher, printer, or conductor of the actual printing of such newspaper, contrary to the true meaning of this Ordinance, or in which any matter or thing by this Ordinance required to be set forth shall be set forth otherwise than according to the truth, or from which any matter or thing required by this Ordinance to be truly set

Fresh declaration to be made in certain cases.

Penalty on making false declaration.

Digitized by Google

forth shall be omitted, every such offender, being convicted thereof, shall be deemed guilty of a misdemeanour and punished accordingly.

Penalty for printing or publishing a newspaper, such declaration not having been made, £50.

2 If any person shall knowingly or wilfully print or publish, or shall cause to be printed or published, or shall, as a proprietor or otherwise, sell or deliver out any newspaper relating to which such declaration as aforesaid, containing such matters and things as are required by this Ordinance to be therein contained, shall not have been duly signed and made and delivered when and so often as by this Ordinance is required, or any other matter or thing required to be done or performed shall not have been accordingly done or performed, every person in any such case offending shall, on conviction thereof, forfeit for every such act done the sum of fifty pounds for every day on which any such newspaper shall be printed or published, sold, or delivered out before or until such declaration shall be signed and made and delivered, or before or until such other matter or thing shall be done or performed, as by this Ordinance is directed.

Declarations to be filed, and certified copies to be admitted in evidence against the persons making the same.

3 All such declarations as aforesaid shall be filed and kept in the office of the Colonial Secretary in such manner as the Governor may direct for the safe custody thereof, and copies thereof, certified by the Colonial Secretary or Assistant Colonial Secretary to be true copies, shall be delivered to any person requiring the same upon payment of the sum of three shillings and no more; and in all proceedings civil or criminal, and upon every occasion whatsoever touching any newspaper mentioned in any such declaration, or touching any publication, matter, or thing contained in any such newspaper, any certified copy of such declaration as aforesaid shall, on proof only of the signature of the Colonial Secretary or Assistant Colonial Secretary certifying the same, be conclusive evidence of the truth of all such matters set forth in such declarations as are hereby required to be therein set forth, and of their continuance respectively, in the same condition to the time in question, against every person who shall have signed such declaration, unless it be proved that previous to the publication in question on such trial such person did duly sign and make a declaration that such person had ceased to be a printer, publisher, or proprietor of such newspaper, and did duly deliver the same at the office of the Colonial Secretary, or unless it shall be proved that previous to such occasion as aforesaid a new declaration of the same or a similar nature respectively, or such as may be required by law, was duly signed and made and delivered as aforesaid respecting the same newspaper, in which the person sought to be affected on such trial did not join; and whenever a certified copy of any such declaration as aforesaid shall have been produced in evidence as aforesaid against any person having made and signed such declaration, and a newspaper shall afterwards be produced in evidence, intituled in the same manner as the newspaper mentioned in such declaration is intituled, or wherein the name of the

After production of the declaration and a newspaper intituled as therein mentioned, it shall not be necessary to

Digitized by Google

Newspapers.

printer and publisher, and the place of printing, shall be the same as the name of the printer and publisher and the place of printing mentioned in such declaration, or shall purport to be the same, whether such title, name, and place printed upon such newspaper shall be set forth in the same form of words as is contained in the said declaration, or in any form of words varying therefrom, it shall not be necessary for the plaintiff, informant, or prosecutor in any action, prosecution, or other proceeding, to prove that the newspaper to which such action, prosecution, or other proceeding may relate was purchased of the defendant, or at any house, shop, or office belonging to or occupied by the defendant, or by his servant or workman, or where he may usually carry on the business of printing or publishing such newspaper, or where the same may be usually sold.

prove the purchase of the paper.

Service of legal process at the place of printing or publishing mentioned in the declaration shall be deemed sufficient service.

4 In any suit, prosecution, or proceeding, civil or criminal, against any printer, publisher, or proprietor of any newspaper, service at the house or place mentioned in any such declaration as aforesaid as the house or place at which such newspaper is printed or published, or intended so to be, of any notice, summons, subpœna, rule, order, writ, or process of what nature soever, either to enforce an appearance, or for any other purpose whatsoever, shall be taken to be good and sufficient service thereof respectively upon and against every person named in such declaration as the printer, publisher, or proprietor of the newspaper mentioned in such declaration.

Name of printer and other particulars to be printed on newspapers.

5 At the end of every newspaper, and of any and every supplement sheets thereto, shall be printed the Christian name, surname, and place of abode of the printer and publisher of the same, and also a true description of the house or building where the same is actually printed and published respectively, and the day of the week, month, and year on which the same is published; and if any person shall knowingly and wilfully print or publish or cause to be printed or published any newspaper or supplement sheets wherein the several particulars aforesaid shall not be printed, or wherein there shall be printed any false name, addition, place, or day, or wherein there shall be printed any description of the place of printing or publishing such newspaper which shall be different in any respect from the description of the house or building mentioned in the declaration required by this Ordinance to be made relating to such newspaper as the house or building wherein such newspaper is intended to be printed or published, every such person shall on conviction thereof forfeit for any and every such offence the sum of twenty pounds.

Copies of newspapers shall be delivered to the Colonial Secretary.

6 The printer or publisher of every newspaper printed in this colony shall, upon every day on which such newspaper shall be published, or on the day next following which shall not be a holiday, deliver or cause to be delivered at the office of the Colonial Secretary in Colombo, if such

Digitized by Google

newspaper be published within twenty miles of Colombo, or if published elsewhere to the government agent of the province wherein the same is published, for the Colonial Secretary, one copy of every such newspaper, and of every second or other varied edition or impression thereof so printed or published with the name and place of abode of the printer or publisher thereof signed and written thereon after the same shall be printed, by his proper hand, and in his accustomed manner of signing, or by some person appointed and authorized by him for that purpose, and of whose appointment and authority due notice in writing signed by such printer or publisher shall be given to the Colonial Secretary, or to the government agent to whom such copies are to be delivered; and such printer or publisher shall be entitled to demand and receive once in every month from the officers aforesaid to whom such newspapers shall be delivered the ordinary price of the newspapers so delivered; and every printer and publisher of such newspaper who shall neglect to deliver or cause to be delivered in manner hereinbefore directed such copy or copies signed as aforesaid, shall, on conviction thereof, forfeit for every such neglect the sum of twenty pounds; and in case any person shall require any such newspaper so signed and delivered to be produced in evidence in any proceeding, civil or criminal, the Colonial Secretary shall cause such newspaper to be produced in court when required at the expense of the party applying for it, or shall deliver the same to such party, taking reasonable security for his returning it, and all copies so delivered as aforesaid shall be evidence against every printer, publisher, and proprietor of every such newspaper in all proceedings, civil or criminal, to be commenced or carried on as well touching such newspapers as any matter or thing therein contained, and touching any other newspaper, and any matter or thing therein contained, which shall be of the same title, purport, or effect with such copy so delivered as aforesaid, although such copy may vary in some instances or particulars, either as to title, purport, or effect; and every printer, publisher, or proprietor of any copy so delivered as aforesaid shall to all intents and purposes be deemed to be the printer, publisher, or proprietor respectively of all newspapers which shall be of the same title, purport, or effect with such copies or impressions so delivered as aforesaid, notwithstanding such variance as aforesaid, unless such printer, publisher, or proprietor respectively shall prove that such newspapers were not printed or published by him, nor by nor with his knowledge or privity.

Construction of the terms used in this Ordinance.

7 Whenever in this Ordinance the word "newspaper" is used, such word shall be understood and construed to include any paper containing public news, intelligence, or occurrences printed in this colony, in whatever way or form the same may be printed or published; and whenever in this Ordinance any word or words used in this Ordinance is or are used importing the singular number or the masculine gender only, yet such word or words shall be understood and

Digitized by Google

construed to include several persons as well as one person, females as well as males, and several matters or things as well as one matter or thing, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

8 Provided always that nothing in this Ordinance contained shall extend to the *Government Gazette*, or to any proclamation, notice, or other public paper printed and published by authority of Government, or to any papers containing only lists of prices current, or the state of the markets, or accounts of the arrival, sailing, or other circumstances relating to merchant ships or vessels, or advertisements of a commercial or like nature, or advertisements previously published in the *Government Gazette*. **_Government Gazette_ and papers published by authority of Government exempted.**

And it is further enacted that this Ordinance shall commence and take effect upon and from the First day of February, One thousand Eight hundred and Forty. **Ordinance when to take effect.**

18th December, 1839.

No. 4 of 1840.

For the Supply of Bullock Carts and other means of Transport required for Her Majesty's Forces and their Baggage on Marches in this Colony.

WHEREAS it is expedient to make regular provision for the supply of bullock carts and other means of transport required for Her Majesty's forces and their baggage on marches in this colony: **Preamble.**

1 All district courts within their respective jurisdictions, upon production of a requisition for that purpose signed by the Governor or the senior officer of Her Majesty's forces, or other person duly authorized on that behalf, shall issue a warrant to any constable, police vidahn, or peace officer, requiring him to provide the number of bullock carts, bullocks, and drivers mentioned in such requisition, and allowing sufficient time to do the same, and specifying the weights which such bullock carts or bullocks shall carry, the places from and to which the said bullock carts, bullocks, and drivers shall travel, and the distance between the places, and also the rate of hire or payment which shall be demanded for the same; and such distance and rate shall be according to the distance and rate of hire for which bullock carts or bullocks are usually let out on private hire at the place where the same are impressed, together with such extra compensation as the district court shall, under the circumstances, consider to be reasonable, but making no allowance for dues or tolls on roads, bridges, or ferries, which are herein declared not to be demandable for the same while employed on such service, or returning therefrom; and the said constable, police vidahn, **Supply of bullock carts and bullocks.** **Mode of proceeding and rate.**

Digitized by Google

or peace officer shall, on receiving such warrant, order persons having bullock carts or bullocks to furnish the requisite supply, who are hereby required to furnish the same accordingly, together with proper drivers; and when it shall appear by a certificate of any district judge that sufficient bullock carts or bullocks cannot be procured within his district, any adjoining district court shall within its jurisdiction by a like course of proceeding supply the deficiency.

Bullock carts plying for common hire liable to be impressed before private carts.

2 All bullock carts plying for hire or the conveyance of goods shall be liable to be impressed under the provisions of this Ordinance before any carts kept by individuals exclusively for private use, and not let out for common hire.

3-6 Repealed by No. 3 of 1848, itself repealed by No. 23 of 1848, itself repealed by No. 14 of 1865.

Half of rate to be paid before loading.

7 The owners or drivers of any bullock carts or bullocks impressed under this Ordinance shall be entitled to be paid one-half of the hire thereof, according to the rate allowed by and specified in the warrant of the district court, before his bullock cart or bullocks shall be loaded; and no bullock cart or bullocks shall be liable to carry a greater weight than shall be specified in the warrant of the district court, and the loading of such bullock cart or bullock shall be first weighed, if required, at the expense of the party in fault, provided that the same can be done in a reasonable time without hindrance to Her Majesty's service; and whenever it shall be necessary to impress bullock carts or bullocks for a march under this Ordinance, at least twenty-four hours' notice shall be given, and in case of emergency as long notice as the case will admit shall be given to the constable, police vidahn, or peace officer who shall have to order the requisite supply; and the owner or owners of every bullock cart or bullock which shall be detained and employed under this Ordinance shall, upon the discharge of such bullock cart or bullocks, be entitled to a certificate of such service or employment; and no owner of any bullock cart or bullock shall be liable to have the same detained and employed under this Ordinance against his or her will, oftener than once in each year, except in case of pressing emergency.

Weight of loading.

Twenty-four hours' notice to constables for providing carts.

Certificate of employment to be given, and carts not liable to be impressed oftener than once a year.

Supply of carriages, &c., in case of emergency.

8 It shall be lawful for the Governor by his warrant, distinctly stating that a case of emergency doth exist, to authorize any officer commanding Her Majesty's troops in any district or place, or any commissariat officer or agent for the supply of military stores and provisions, to make a requisition in writing under his hand to any district court within its jurisdiction to issue its warrant for the provision, not only of bullock carts and bullocks kept by or belonging to any person and for any use whatsoever, but also of horses, carriages, hackeries, waggons, and vehicles, and also of boats, barges, and other vessels used for the transport of any commodities whatsoever upon any canal or navigable river, as shall be mentioned in the said requisition, therein specifying the place and distance to which such carriages, horses, or vessels shall go; and on the production of the said requisition to any

Digitized by Google

district court, such court shall, within its jurisdiction, take all the same proceedings in regard to such additional supply so required on the said emergencies as the said courts are by this Ordinance required to take for the ordinary provision of bullock carts or bullocks; and all provisions whatsoever of this Ordinance, as regards the procuring of the ordinary supply of bullock carts and bullocks, and the duties of the constables or other officers and owners of bullock carts and bullocks in that behalf, shall be to all intents applicable for the providing and payment according to the rate of hire usually paid for such other description of carriages or vessels so required on emergency, according to the length of the journey or voyage in such case; and it shall be lawful to convey thereon, not only the baggage, provisions, and military stores of any regiment or detachment, but also the officers, soldiers, servants, women, children, and other persons of or belonging to the same.

Penalties upon persons offending against provisions of this Ordinance.

9 If any constable, police vidahn, or other peace officer shall wilfully neglect or refuse to execute any warrant aforesaid of the district court which shall be directed to him for providing bullock carts or bullocks, horses, carriages, or vessels, or if any person appointed by such constable to provide bullock carts or bullocks, horses, carriages, or vessels, shall refuse or neglect to supply the same, or do any act or thing by which the execution of such warrant shall be hindered, such constable, police vidahn, peace officer, or other person shall forfeit for every such offence, neglect, or refusal any sum not exceeding five pounds nor less than two pounds, and the register or license of every bullock cart for which default shall be made shall be thereupon forfeited, and the plate thereof accordingly ordered to be removed from such cart.

Forfeiture of license of bullock cart.

Penalties upon the military so offending.

10 If any military officer, non-commissioned officer, or soldier shall, except on emergency, constrain any bullock cart, or carriage, or vessel to proceed beyond the distance specified in the warrant of the district court, or shall compel the owners or driver to take up any soldier or servant (except such as are sick), or shall otherwise, contrary to the will of the owner or driver, cause or permit any greater load to be put upon any carriage than is directed by this Ordinance, such officer, non-commissioned officer, or soldier shall, upon conviction, forfeit for every such offence any sum not exceeding five pounds nor less than two pounds.

Fines to be levied by distress.

11 All fines or penalties imposed by this Ordinance shall, on failure of immediate payment, be levied by summary warrant of distress and sale of the goods, property, and effects of the offender or offenders, and in default of payment the offender or offenders shall be liable to imprisonment not exceeding three calendar months, and it shall also be lawful for any court before whom any such offender may be convicted to order at its discretion the whole or any part of such fine or penalty when recovered to be paid over or applied to the use and benefit of the person who shall first have given information against or been active in the

Informer's share.

Digitized by Google

apprehending of such offender, or shall appear otherwise deserving of reward in the matter.

Construction of terms.

12 Whenever the words "bullock carts" or "bullocks" are used in this Ordinance, such words shall be respectively understood and construed to include buffalo carts as well as bullock carts, and buffaloes as well as bullocks, and that whenever any word or words is or are used in this Ordinance importing the singular number or the masculine gender only, yet such word or words shall be understood and construed to include several persons as well as one person, females as well as males, and several matters or things as well as one matter or thing, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

Commencement of Ordinance.

13 And it is further enacted that this Ordinance shall commence and take effect upon and after the First day of March, One thousand Eight hundred and Forty.

13th January, 1840.

No. 7 of 1840.

To provide more effectually for the Prevention of Frauds and Perjuries.

(See No. 17 of 1852, No. 5 of 1875, No. 21 of 1887, and No. 11 of 1896.)

Preamble.

WHEREAS it is expedient to repeal the Ordinance No. 7 of 1834, entitled "An Ordinance to assimilate, amend, and consolidate the Laws now in force in the different parts of this Island for the prevention of Frauds and Perjuries," and to provide more effectually for the prevention of frauds and perjuries :

Repeal of Ordinance No. 7 of 1834.

1 It is therefore hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, that the said Ordinance No. 7 of 1834 shall be and the same is hereby repealed except as to any offences already committed, or any fines, penalties, or liabilities incurred thereunder, or the repeal of the previous Regulations and Proclamation thereby repealed.

Deeds affecting immovable property to be executed before a notary and witnesses.

[*Not to affect agreements for cultivation of paddy lands and chenas—§ 1, 21 of 1887*]

2 No sale, purchase, transfer, assignment, or mortgage of land or other immovable property, and no promise, bargain, contract, or agreement for effecting any such object, or for establishing any security, interest, or incumbrance affecting land or other immovable property (other than a lease at will, or for any period not exceeding one month), nor any contract or agreement for the future sale or purchase of any land or other immovable property, shall be of force or avail in law unless the same shall be in writing and signed by the party making the same, or by some person lawfully authorized by him or her in the presence of a licensed notary public and two or more witnesses present at the same time, and

Digitized by Google

unless the execution of such writing, deed, or instrument be duly attested by such notary and witnesses.

Every will shall be in writing, and signed by the testator in the presence of two witnesses at one time.

3 No will, testament, or codicil containing any devise of land or other immovable property, or any bequest of movable property, or for any other purpose whatsoever, shall be valid unless it shall be in writing and executed in manner hereinafter mentioned; (that is to say) it shall be signed at the foot or end thereof by the testator, or by some other person in his presence and by his direction, and such signature shall be made or acknowledged by the testator in the presence of a licensed notary public and two or more witnesses, who shall be present at the same time and duly attest such execution, or if no notary shall be present, then such signature shall be made or acknowledged by the testator in presence of five or more witnesses present at the same time, and such witnesses shall subscribe the will in the presence of the testator, but no form of attestation shall be necessary.

Appointments by will to be executed like other wills, and to be valid although other required solemnities are not observed.

4 No appointment made by will, testament, or codicil in exercise of any power shall be valid unless the same be executed in manner hereinbefore required; and every will, testament, or codicil executed in manner hereinbefore required shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by will, testament, or codicil, notwithstanding that it shall have been expressly required that a will, testament, or codicil, made in exercise of such power, should be executed with some additional or other form of execution or solemnity.

No will to be revoked but by another will or codicil, or by a writing executed like a will, or by destruction.

5 No will, testament, or codicil, or any part thereof, shall be revoked otherwise than by the marriage of the testator or testatrix, or by another will, testament, or codicil executed in manner hereinbefore required, or by some writing declaring an intention to revoke the same, and executed in the manner in which a will, testament, or codicil is hereinbefore required to be executed, or by the burning, tearing, or otherwise destroying the same by the testator or testatrix, or by some person in his or her presence, and by his or her direction, with the intention of revoking the same.

No alteration in a will shall have any effect unless executed as a will.

6 No obliteration, interlineation, or other alteration made in any will, testament, or codicil after the execution thereof shall be valid or have any effect, except so far as the words or effect of the will, testament, or codicil before such alteration shall not be apparent, unless such alteration shall be executed in like manner as hereinbefore is required for the execution of the will, but the will, testament, or codicil, with such alteration as part thereof, shall be deemed to be duly executed if the signature of the testator or testatrix, and the subscription of the witnesses be made in the margin or some other part of the will, testament, or codicil opposite or near to such alteration, or at the foot or end of or opposite or near to such alteration, or at the foot or end of or opposite to a memorandum referring to such alteration, and written at the end or some other part of the will, testament, or codicil.

Digitized by Google

Frauds and Perjuries.

No will revoked to be revived otherwise than by re-execution, or a codicil to revive it.

7 No will, testament, or codicil, or any part thereof, which shall be in any manner revoked shall be revived otherwise than by the re-execution thereof, or by a codicil executed in manner hereinbefore required, and showing an intention to revive the same; and when any will, testament, or codicil which shall be partly revoked and afterwards wholly revoked shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary be shown.

Publication not to be requisite.

8 Every will, testament, or codicil executed in manner hereinbefore required shall be valid without any other publication thereof; provided always that every such will, testament, or codicil shall, after the decease of the testator or testatrix, be duly proved and recorded in the district court empowered by the charter to grant probate or administration in such case, according to such general rules of practice as may now or hereafter be made by the judges of the Supreme Court.

Will not to be void on account of incompetency of attesting witness.

9 If any person who shall attest the execution of any will, testament, or codicil shall at the time of the execution thereof, or at any time afterwards, be incompetent to be admitted a witness to prove the execution thereof, such will, testament, or codicil shall not on that account be invalid.

Gifts to an attesting witness to be void.

10 If any person shall attest the execution of any will, testament, or codicil to whom or to whose wife or husband any beneficial devise, legacy, estate, interest, gift, disposition, or appointment of or affecting any immovable or movable property (other than and except charges and directions for the payment of any debt or debts) shall be thereby given or made, such devise, legacy, estate, interest, gift, disposition, or appointment shall, so far only as concerns such person attesting the execution of such will, testament, or codicil, or the wife or husband of such person, or any person claiming under such person or wife or husband, be utterly null and void, and such person so attesting shall be admitted as witness to prove the execution, or to prove the validity or invalidity thereof, notwithstanding such devise, legacy, estate, interest, gift, disposition, or appointment mentioned in such will, testament, or codicil.

Creditor attesting to be admitted a witness.

11 In case by any will, testament, or codicil any immovable or movable property shall be charged with any debt or debts, and any creditor, or the wife or husband of any creditor whose debt is so charged, shall attest the execution of such will, testament, or codicil, such creditor, notwithstanding such charge, shall be admitted a witness to prove the execution of such will, testament, or codicil, or to prove the validity or invalidity thereof.

Executor to be admitted a witness.

12 That no person shall, on account of his or her being an executor or executrix of a will, testament, or codicil, be incompetent to be admitted a witness to prove the execution of such will, testament, or codicil, or a witness to prove the validity or invalidity thereof; nor shall any executor or

Digitized by Google

executrix, by reason of his or her attesting such will, forfeit the recompense or commission for his or her trouble payable by law, custom, or practice.

13 Notwithstanding anything in this Ordinance contained, any soldier being in actual military service, or any mariner or seaman being at sea, may dispose of his personal estate as he might have done before the making of this Ordinance. Soldiers' and mariners' wills excepted.

14 No writing, deed, or instrument for the purposes aforesaid, and no will, testament, or codicil which shall have been made prior to the passing of this Ordinance, shall be deemed or taken to be invalid by reason alone of the same not having been executed and acknowledged before or attested by a notary licensed to practise within the district wherein the land or property devised or to be affected by such writing, deed, or instrument, will, testament, or codicil, is situated, any provision in the hereinbefore repealed Ordinance No. 7 of 1834 to the contrary nothwithstanding: Provided always that every such writing, deed, or instrument, will, testament, or codicil shall have been at the time of the date thereof duly executed, acknowledged before, or attested by a notary licensed to practise in some other district. Deeds executed before other than proper notary prior to passing of Ordinance.

15 Every deed or other instrument, except any will, testament, or codicil required by this Ordinance to be executed or acknowledged before or to be attested by a notary, shall be executed, acknowledged, or attested in duplicate.

16-19 Repealed by No. 16 of 1852, itself repealed by No. 16 of 1873, itself repealed by No. 2 of 1877.

20 None of the foregoing provisions in this Ordinance shall be taken as applying to any grants, sales, or other conveyances of land or other immovable property from or to Government, or to any mortgage of land or other immovable property made to Government, or to any deed or instrument touching land or other immovable property to which Government shall be a party, or to any certificates of sales granted by fiscals of land or other immovable property sold under writs of execution. Ordinance not to affect sales by Government, &c.

21 No promise, contract, bargain, or agreement, unless it be in writing and signed by the party making the same, or by some person thereto lawfully authorized by him or her, shall be of force or avail in law for any of the following purposes: No promise, &c., to be in force unless in writing and signed.

(1) For charging any person with the debt, default, or miscarriage of another.

(2) For pledging movable property, unless the same shall have been actually delivered to the person to whom it is alleged to have been pledged.

(3) Repealed by section 57 of No. 11 of 1896.

(4) For establishing a partnership where the capital exceeds one hundred pounds: Provided that this shall not

Digitized by Google

be construed to prevent third parties from suing partners, or persons acting as such, and offering in evidence circumstances to prove a partnership existing between such persons, or to exclude parol testimony concerning transactions by or the settlement of any account between partners.

Proviso.

22 Provided always that nothing in the preceding clause shall be construed to exempt any deed or instrument in any manner affecting land or other immovable property from being required for that purpose to be executed and attested in manner declared by the second clause of this Ordinance.

Commencement of Ordinance.

And it is further enacted that this Ordinance shall commence and take effect upon and from the First day of February, One thousand Eight hundred and Forty.

18th January, 1840.

No. 17 of 1852.

To make further provision touching the Execution of certain Deeds and Instruments.

(*See No. 5 of 1875.*)

Preamble.

WHEREAS it is expedient to facilitate the execution of certain deeds which at present are required to be executed before and attested by a notary public, and for that purpose to allow parties to such deeds to execute the same, if they think fit, before an officer of government instead of before a notary, and to render all deeds executed before any such officer of equal validity and effect with notarial deeds :

Deeds relating to land may be executed before a district judge or commissioner, &c.

1 Every writing, deed, or instrument which by the second section of the Ordinance No. 7 of 1840, entitled "To provide more effectually for the Prevention of Frauds and Perjuries," is required to be executed in the manner therein mentioned in order to its validity, shall, if made after this Ordinance shall come into operation, be valid and effectual, so far as relates to the execution thereof, if the same be signed by the party making the same, or by some person lawfully authorized by him, and by two or more witnesses present at the same time, in the presence of some district judge or commissioner of a court of requests for the district in which the party making such writing, deed, or instrument, or the person signing the same as such attorney, resides, or in the presence of some justice of the peace for such district specially authorized by the Governor to act in that behalf, and of whose appointment notice shall be given in the *Government Gazette*, and if the execution of such writing, deed, or instrument shall be certified at the foot or end thereof under the hand and seal of such judge or commissioner, or of such justice authorized as aforesaid, anything contained in the said Ordinance No. 7 of 1840 to the contrary notwithstanding.

They shall be executed in duplicate and registered.

2 Provided that every such writing, deed, or instrument shall be executed in duplicate, which duplicate shall be forthwith delivered or transmitted by such judge, commissioner, or justice to the secretary of the proper district court, to be by him registered and preserved in the district court in like manner as notarial deeds of a similar

Digitized by Google

Frauds and Perjuries.

description; and all persons interested in any such deed shall be entitled, on furnishing the proper stamp, to demand a copy or extract of such deed, certified as correct by the said secretary, for which copy or extract a fee of four shillings shall be paid to the said secretary, who shall pay the same into the public treasury.

Copies or extracts how obtained.

3 No such judge, commissioner, or justice as aforesaid shall be authorized to certify the execution of any such writing, deed, or instrument unless the same, and the duplicate thereof, shall be duly stamped as required by law, nor until the same shall have been read over and explained to the party making the same, and to the witnesses thereto, by or in the presence of such judge, commissioner, or justice as aforesaid, nor unless the same, and the duplicate thereof, shall be legibly written or engrossed, without erasures therein, nor unless the party making such writing, deed, or instrument shall be known to such judge, commissioner, or justice as aforesaid, or to at least two of the attesting witnesses thereto, who shall make a declaration to that effect before him.

Manner of execution of such deeds.

4 Every such judge, commissioner, or justice as aforesaid shall insert in his certificate of the execution of every such writing, deed, or instrument, the day, month, and year on which and the place where the same is executed, together with the names and residences of the attesting witnesses; and such certificate shall be in the following form of words, or in any other form of words to the same effect; that is to say,

Form of certificate.

I, *A. B.*, District Judge of *Ratnapoora* (*or as the case may be*), hereby certify that the above-written deed was signed by the within-named (*insert the name of the party making the deed*), the maker thereof, and by ——— of ———, and ——— of———, the attesting witnesses thereto, in my presence and in the presence of one another, at *Ratnapoora*, on the *Sixth* day of *September*, in the year of our Lord *One thousand Eight hundred and Fifty-two.*

(Seal) *A. B.*,
District Judge.

5 No fee or gratuity shall be received or taken by any such judge or commissioner, or by any such justice authorized by the Governor as aforesaid, of or from any person whomsoever, for certifying the execution of any such writing, deed, or instrument, or for any act done or to be done by any such judge, commissioner, or justice under this Ordinance; and any such officer who shall receive or take any fee or gratuity contrary to the true intent and meaning of this Ordinance shall be liable on conviction thereof to a fine not exceeding twenty pounds.

No fees to be taken.

Penalty.

6 No such judge or commissioner, and no such justice authorized by the Governor as aforesaid, and no secretary, clerk, interpreter, or other officer of any court presided over by such judge or commissioner, shall draw up, write, or engross any writing, deed, or instrument to be executed under the provisions of this Ordinance, or any duplicate thereof; and any such officer who shall draw up, write, or engross any such writing, deed, or instrument, or the duplicate thereof, contrary to the true intent and meaning of this Ordinance, shall be liable on conviction to a fine not exceeding twenty pounds.

Deeds not to be written by such judges, &c., or by the officers of their courts.

Penalty.

7 This Ordinance shall come into operation on the First day of July, One thousand Eight hundred and Fifty-three.

Commencement of Ordinance.

20th October, 1852.

Digitized by Google

No. 5 of 1875.

An Ordinance to declare the validity of certain Writings, Deeds, and Instruments purporting to be executed in conformity with the provisions of Ordinance No. 17 of 1852, and to amend the said Ordinance.

Preamble.

WHEREAS the Ordinance No. 17 of 1852, entitled "An Ordinance to make further provision touching the execution of certain Deeds and Instruments," provides for the execution of certain writings, deeds, and instruments before officers other than notaries, in the manner therein prescribed, and divers writings, deeds, and instruments have since the passing thereof been executed in conformity with its provisions, except that they have been certified under the hand only, and not under the hand and seal of such officers; and whereas doubts have arisen as to the validity of such writings, deeds, and instruments, which it is expedient should be removed; and whereas it is also expedient that writings, deeds, and instruments hereafter to be executed should not be invalidated merely by reason of their having been certified under the hand only and not under the hand and seal of such officers, if in other respects executed in conformity with the provisions of the said Ordinance: It is therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Writings, &c., otherwise duly executed under the provisions of the Ordinance No. 17 of 1852 declared valid notwithstanding the want of the seal.

1 Every writing, deed, or instrument which shall have been heretofore or shall be hereafter otherwise duly executed in conformity with the provisions of the said Ordinance, shall be deemed and is hereby declared to be valid and effectual to all intents and purposes, so far as relates to the execution thereof, notwithstanding that the same shall not have been certified under the seal of the district judge, commissioner of the court of requests, or justice of the peace specially authorized by the Governor to act in that behalf. Provided that nothing herein contained shall give any validity to any writing, deed, or instrument which may be invalid or ineffectual for any reason other than that arising from the same not being certified under such seal aforesaid, or to any writing, deed, or instrument which has heretofore been declared invalid or ineffectual by any competent court of law, in consequence of the same not having been certified under such seal as aforesaid.

2nd June, 1875.

No. 21 of 1887.

An Ordinance relating to the Cultivation of Land for a share of the Produce thereof.

Preamble.

WHEREAS it is expedient to exempt certain contracts for the cultivation of paddy fields and chena lands from the operation of the Ordinance No. 7 of 1840, intituled "An Ordinance to provide more effectually for the prevention of Frauds and Perjuries:" Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Certain contracts or agreements for the cultivation of paddy fields and chenas for any period not exceeding twelve months need not be notarially executed.

1 The provisions of section 2 of the Ordinance No. 7 of 1840 shall not be taken to apply to any contract or agreement for the cultivation of paddy fields or chena lands for any period not exceeding twelve months, if the consideration for such contract or agreement shall be that the cultivator shall give to the owner of such fields or lands any share or shares of the crop or produce thereof.

Digitized by Google

2 This Ordinance shall come into operation in such places, districts, or provinces, and at such time or times, respectively, as the Governor in Executive Council shall from time to time, by Proclamation to be published in the *Government Gazette*, appoint; and it shall be lawful for the Governor in Executive Council, by Proclamation, to declare that this Ordinance shall cease to have operation in any place, district, or province which may become subject thereto, in which case this Ordinance shall accordingly cease to have any operation in such place, district, or province. Commencement.

19th December, 1887.

No. 12 of 1840.

To prevent Encroachments upon Crown Lands.

(*See Order in Council of 11th August, 1841, and Ordinances No. 9 of 1841 and No. 1 of 1844.*)

WHEREAS divers persons, without any probable claim or pretence of title, have taken possession of lands in this colony belonging to Her Majesty, and it is necessary that provision be made for the prevention of such encroachments: Preamble.

1 It shall and may be lawful for the district court, upon information supported by affidavit charging any person or persons with having, without probable claim or pretence of title, entered upon or taken possession of any land which belongs to Her Majesty, her heirs or successors, to issue its summons for the appearance before it of the party or parties alleged to have so illegally entered upon or taken possession of such land, and of any other person or persons whom it may be necessary or proper to examine as a witness or witnesses, on the hearing of any such information; and the said district court shall proceed in a summary way in the presence of the parties, or in case of wilful absence of any person against whom any such information shall have been laid, then in his absence to hear and determine such information; and in case on the hearing thereof it shall be made to appear by the examination of the said party or parties, or other sufficient evidence to the satisfaction of such district court, that the said party or parties against whom such information shall have been laid hath or have entered upon or taken possession of the land mentioned or referred to in such information without any probable claim or pretence of title, and that such party or parties hath or have not cultivated, planted, or otherwise improved and held uninterrupted possession of such land for the period of *five** years or upwards, then, and not otherwise, such district court is hereby authorized and required to make an order directing such party or parties to deliver up to Her Majesty, her heirs or successors, peaceable possession of such land, together with all crops growing thereon, and all buildings and other immovable property upon and affixed to the said land, and to pay the costs of such information; and in case the party or parties against whom any such order

Information of encroachment.

[*See* § *2, 9 of 1841*]

Order for delivery up of possession.

* Order of Council of 11th August, 1841.

Digitized by Google

shall have been made shall not, within fourteen days after service thereof, deliver up possession of the said land and premises, pursuant to the said order, or shall afterwards make or cause to be made any further encroachments upon the said land or premises, contrary to such order or in evasion thereof, then and in such case it shall be lawful for such district court to adjudge such party or parties to pay a fine not exceeding five pounds, or to be imprisoned, with or without hard labour, for any time not exceeding fourteen days, and to make a further order for the immediate delivery over of the possession of such land and premises to Her Majesty, her heirs or successors; and the district court shall thereupon cause possession thereof to be delivered to Her Majesty, her heirs or successors, accordingly.

Penalty on disobedience of order or renewed encroachment.

Subsequent proceeding by ordinary course of law.

2 Any person against whom any such order as aforesaid may have been made may, notwithstanding such order, proceed by the ordinary course of law to recover possession of such lands, in case he shall be able to establish a title thereto; and may also in such case recover a reasonable compensation for the damage he may have sustained by reason of his having been compelled to deliver up possession of the said premises, and in like manner, in case of the dismissal of any such information, the party having preferred the same may proceed according to the ordinary course of law, as if no such information had been preferred.

Court may order payment of costs.

3 Provided always that in case any such information shall be dismissed, it shall be lawful for the said district court, if it shall think fit, to order payment by Government to the party or parties against whom the same may have been preferred of such sum as the said court may consider to be the amount of costs fairly incurred by such party or parties by reason of such information so dismissed.

Proceedings subject to rules of court.

4 The forms of the proceedings to be observed on lodging complaints, in issuing summonses, in the examination of the party or parties, in the citation of witnesses, in the making orders, and generally for the complete carrying into execution the powers hereby vested in the said district court, shall be according to such general rules of practice as the judges of the Supreme Court may now or hereafter frame thereon.

Cinnamon lands, when the property of the Crown.

5 All cinnamon lands which shall have been uninterruptedly possessed by Government for a period of thirty years and upwards, by peeling the cinnamon growing thereon, shall be held and deemed to be the property of the Crown.

Waste lands to be deemed the property of the Crown.

6 All forest, waste, unoccupied, or uncultivated lands shall be presumed to be the property of the Crown until the contrary thereof be proved, and all chenas and other lands which can be only cultivated after intervals of several years shall, if the same be situate within the districts formerly comprised in the Kandian provinces (wherein no thombo registers have been heretofore established), be deemed to belong to the Crown and not to be the property of any private person claiming the same against the Crown, except upon proof only by such person of a sannas or grant for the

Digitized by Google

same, together with satisfactory evidence as to the limits and boundaries thereof, or of such customary taxes, dues, or services having been rendered within twenty years for the same as have been rendered within such period for similar lands being the property of private proprietors in the same districts; and in all other districts in this colony such chena and other lands which can only be cultivated after intervals of several years shall be deemed to be forest or waste lands within the meaning of this clause.

7 It shall be lawful for any person in the possession of land to make application in writing to the government agent of the province in which such land is situate for a certificate of the Crown having no claim to such land, which application shall contain a full description of the property, together with a survey thereof made by or under the authority of the Surveyor-General, and shall contain a declaration by the applicant, stating the nature of his right, or the manner in which he acquired possession; and if the government agent shall, upon investigation, be satisfied that the Crown has no claim to such land, he shall, with the consent of the Governor, grant a certificate to that effect to such applicant, and a copy of such certificate shall be previously entered in a book to be kept in the office of the government agent for that purpose, and such certificate, or any copy from such entry thereof, attested by the government agent, shall be received by any court as a good and valid title to such land against any right, title, or claim of the Crown thereto existing at the date of such certificate.

Government agent when to grant certificate against the right of the Crown.

[*See No. 1 of 1844*]

8 Whenever any person shall have, without any grant or title from Government, taken possession of and cultivated, planted, or otherwise improved any land belonging to Government, and shall have held uninterrupted possession thereof for not less than ten nor more than thirty years, such person shall be entitled to a grant from Government of such land, on payment by him or her of half the improved value of the said land, unless Government shall require the same for public purposes, or for the use of Her Majesty, her heirs and successors, when such person shall be liable only to be ejected from such land on being paid by Government the half of the improved value thereof, and the full value of any buildings that may have been erected thereon.

If party ten years in uninterrupted possession of Government land.

[*See* § *2, 9 of 1841*]

9 Repealed by No. 9 of 1841.

10 All and every encroachment on any public road, street, or highway, by building or other erection, or by enclosure, planting, or otherwise, shall, on information thereof, be immediately abated and removed by judgment, order, or decree of the district court thereon, and the party or parties offending found liable in damages besides the costs of suit.

Encroachment on road, &c.

11 Any principal or other headman who shall wilfully or knowingly refuse or neglect to give every information within his knowledge or power immediately to the government agent of his province, or some assistant agent thereof, of any

Headman to give information.

Digitized by Google

encroachment made by any person or persons upon any land belonging to Her Majesty, her heirs or successors, and situated in the district or village of such headman, shall be liable for every such offence to a fine not exceeding ten pounds.

27th October, 1840.

Order in Council of 11th August, 1841.

At the COURT at WINDSOR, the 11th of AUGUST, 1841.

Present:

THE QUEEN'S MOST EXCELLENT MAJESTY.

His Royal Highness Prince Albert.	Lord Chamberlain.
Marquis of Normanby.	Viscount Duncannon.
Viscount Melbourne.	Viscount Palmerston.
	Mr. Stanley.

Order in Council, 11th August, 1841.

WHEREAS on the 27th day of October, 1840, an Ordinance was enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof. intituled "Ordinance enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, to prevent Encroachments upon Crown Lands":

Now therefore Her Majesty, by and with the advice of her Privy Council, hath been pleased to confirm and allow the said Ordinance, subject to the amendments hereinafter mentioned, and the said Ordinance is hereby, subject to these amendments, confirmed and allowed accordingly:

And whereas the period of thirty years or upwards of uninterrupted possession, which by the said recited Ordinance is limited as the period after which an order for delivering up possession of land may not be made, is unreasonably long, Her Majesty is, with the advice aforesaid. pleased to order, and it is hereby ordered, that the said recited Ordinance shall be and the same is hereby amended by the substitution of the period of five years for the before-mentioned period of thirty years.

And the Right Honourable Lord John Russell, one of Her Majesty's Secretaries of State, is to give the necessary directions herein accordingly.

C. C. GREVILLE.

No. 9 of 1841.

To repeal the ninth clause of the Ordinance No. 12 of 1840, and to re-enact certain of its provisions.

Preamble.

WHEREAS it is expedient to repeal the ninth clause of the Ordinance No. 12 of 1840, entitled "To prevent Encroachments upon Crown Lands":

Clause 9 of Ordinance No. 12 of 1840 repealed.

1 It is therefore hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, that the ninth clause of the Ordinance No. 12 of 1840, entitled "To prevent Encroachments upon Crown Lands," shall be and the same is hereby repealed.

Digitized by Google

2 None of the provisions contained in the eighth clause, nor the provision touching prescription contained in the first clause of the said Ordinance No. 12 of 1840, shall extend to any land referred to in the sixth clause thereof, nor to any public road, street, or highway, nor to any land known or held as toonhawul land.

Eighth clause and part of the first clause of Ordinance No. 12 of 1840 not to extend to any land referred to in the sixth clause thereof.

12th October, 1841.

No. 4 of 1841.

To amend the Laws relating to Vagrants.

(See No. 7 of 1889, No. 17 of 1889, and No. 19 of 1889.)

WHEREAS it is expedient to amend the laws relating to vagrants :

Preamble.

1 It is therefore hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, that the fifth and sixteenth clauses of the Ordinance No. 3 of 1834, entitled "For improving the Police within the town, fort, and four gravets and port of Colombo, and for consolidating and amending the laws relating to the same," and the Ordinance No. 3 of 1840, entitled "For the suppression of Vagrancy and the punishment of idle and disorderly persons and rogues and vagabonds," shall be and the same are hereby repealed, except in so far as they repeal other Regulations, Ordinances, and Proclamations.

Former provisions repealed.

2 Every person behaving in a riotous or disorderly manner in any public street or highway shall be liable to a fine not exceeding ten shillings ; provided nevertheless that every person convicted four times of such conduct shall, for every subsequent offence, be punishable in the manner declared in the following clause respecting idle and disorderly persons.

Punishment of persons behaving riotously or disorderly in the public streets.

3 Every person committing any of the offences hereinafter mentioned in this clause shall be deemed an idle and disorderly person within the true intent and meaning of this Ordinance, and shall be liable upon the first conviction to be imprisoned, with or without hard labour, for any term not exceeding fourteen days, or to a fine not exceeding twenty shillings :

Persons committing offences herein mentioned to be deemed idle and disorderly persons.

(1) Every person being able to maintain himself by work or other means, but who shall wilfully refuse or neglect so to do, and shall wander abroad or place himself in any public place, street, highway, court, or passage to beg or gather alms, or cause, or procure, or encourage any of his family so to do, excepting priests and pilgrims in performance of their religious vows, not being mendicants of the description mentioned in the second section of the following clause.

(3) Every common prostitute wandering in the public street or highway, or in any place of public resort, and behaving in a riotous or indecent manner.

Digitized by Google

(4) Every person wandering abroad or lodging in any verandah, outhouse, shed, or unoccupied building, or in any cart, vehicle, or other receptacle, without leave of the owner thereof, and not having any visible means of subsistence, and not giving a good account of himself.

(5) Every person, without leave of the owner, defacing the side of any house or building or wall by fixing any placard or notice, or by any indecent or insulting writing or drawing thereon.

Idle and disorderly persons on second conviction, or resisting constables, and persons committing offences herein mentioned, to be deemed rogues and vagabonds.

4 Every person convicted a second time of being idle and disorderly, and every idle and disorderly person resisting any constable or police officer apprehending him, and every person committing any of the offences hereinafter mentioned in this clause, shall be deemed a rogue and vagabond within the true intent and meaning of this Ordinance, and shall be liable to be imprisoned with or without hard labour for any period not exceeding one month, or to a fine not exceeding two pounds:

(1) Every person wilfully exposing his person in an indecent manner, or exhibiting any obscene print, picture, or other indecent exhibition, in any street, road, highway, or public place or elsewhere, to the annoyance and disgust of others.

(2) Every person wandering abroad, or placing himself in any public place, street, highway, court, or passage, and endeavouring by the exposure of any wounds, deformities, leprosy, or loathsome diseases, to obtain or gather alms.

(3) Every person going about as a gatherer or collector of alms, or endeavouring to procure charitable contributions for himself or others, of any nature or kind, under any false or fraudulent pretences.

Persons convicted a third time of being idle and disorderly, or a second time of being rogues and vagabonds, and persons escaping from place of confinement, to be deemed incorrigible rogues.

5 Every person convicted a third time or more often of being idle and disorderly, or a second time or more often of being a rogue and vagabond, and every person escaping out of any place of legal confinement before the expiration of the term for which he shall have been committed under this Ordinance, shall be deemed to be an incorrigible rogue within the true intent and meaning of this Ordinance, and shall be liable to imprisonment at hard labour for any period not exceeding four months, and to corporal punishment not exceeding twenty-five lashes.

Incorrigible rogue may be required to give security for future good behaviour.

6 Every person convicted as an incorrigible rogue may, in addition to any punishment imposed by the preceding clause, be required also to give security for his good behaviour for one year after his discharge, and in default of such security shall be liable to additional imprisonment at hard labour not exceeding four months.

7–10 Repealed by No. 3 of 1894.

Digitized by Google

Vagrants.

Officers neglecting their duty.

11 In case any principal or other headman, constable, or other peace officer aforesaid shall neglect his duty in anything required of him by this Ordinance, he shall be liable for every such offence to a fine not exceeding five pounds, or to imprisonment not exceeding two calendar months, with or without hard labour, at the discretion of the court.

Persons obstructing officers.

12 In case any person shall hinder, disturb, or molest any principal or other headman, constable, or other peace officer in the execution of this Ordinance, or shall be aiding, abetting, or assisting therein, or shall knowingly conceal or harbour, or knowingly attempt, aid, abet, or assist in harbouring or concealing any rogue and vagabond, and shall be thereof convicted, every such offender shall, for every such offence, be liable to a fine not exceeding three pounds, or to imprisonment with or without hard labour for any period not exceeding four months; and every person who shall knowingly conceal or harbour, or knowingly attempt, aid, abet, or assist in harbouring or concealing any incorrigible rogue, shall be liable to a fine not exceeding five pounds, or to imprisonment for any period not exceeding six months with or without hard labour.

13 Repealed by No. 12 of 1891.

14 Repealed by No. 7 of 1873, itself repealed by No. 12 of 1891.

15 Repealed by No. 12 of 1891.

16, 17, 19, 20 Repealed by No. 17 of 1889.

18 Repealed by No. 3 of 1894.

Fines to be levied by distress.

21 All fines or penalties imposed by this Ordinance shall, on failure of immediate payment, be levied by summary warrant of distress and sale of the goods, property, and effects of the offender, and in default of payment every such offender shall be imprisoned at hard labour for the space of one month for every pound of such fine which shall remain unsatisfied, and in like proportion for every lesser sum, provided that such imprisonment on any one conviction shall never exceed the term of twelve months, and it shall also be lawful for any court before whom any such offender may be convicted to order, at its discretion, the whole or any part of such fine or penalty, when recovered, to be paid over or applied to the use and benefit of the persons who shall first have given information against or been active in the apprehending of such offender, or shall appear otherwise deserving of reward in the matter.

Informer's share.

No prosecution to be instituted after one month.

22 No prosecution shall be instituted against any person for offences under the provisions of this Ordinance after the expiration of one calendar month next subsequent to the date of the offence.

Construction of terms.

23 Whenever in this Ordinance any word or words used in this Ordinance is or are used importing the singular number or the masculine gender only, yet such word or

Digitized by Google

words shall be understood and construed to include several persons as well as one person, females as well as males, and several matters or things as well as one matter or thing, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

Ordinance when to take effect.

24 And it is further enacted that this Ordinance shall commence and take effect upon and from the First day of January, One thousand Eight hundred and Forty-two.

6th September, 1841.

No. 7 of 1889.

An Ordinance amending the Law relating to Vagrants.

Preamble.

WHEREAS it is expedient to amend the law relating to vagrants: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Interpretation of "idle and disorderly person" extended.

1 Whoever in or upon any wharf, jetty, street, road, walk, passage, verandah, or other place used by or accessible to the public, persistently and without lawful excuse follows, accosts, or addresses by words or signs any person against his will and to his annoyance, shall be deemed to be an idle and disorderly person within the meaning of the Ordinance No. 4 of 1841, intituled "An Ordinance to amend the Laws relating to Vagrants," and shall, on conviction, be liable to the several pains and penalties provided in the said Ordinance.

Police officer may arrest without a warrant.

2 A police officer may arrest without a warrant every such idle and disorderly person.

To be read with Ordinance No. 4 of 1841.

3 This Ordinance shall be read as one with the Ordinance No. 4 of 1841.

28th June, 1889.

No. 9 of 1841.

To repeal the ninth clause of the Ordinance No. 12 of 1840, and to re-enact certain of its provisions.

(*See under Ordinance No. 12 of 1840, page 118.*)

No. 11 of 1842.

An Ordinance to provide for a Church in Kandy.

Preamble.

WHEREAS several persons have, with the concurrence of the Lord Bishop of the diocese, subscribed certain sums of money for the purpose of erecting a church at Kandy, for the celebration of Divine worship according to the rites of the United Church of England and Ireland, and by some minister thereof duly appointed by Government: And whereas the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, has consented to grant from the public chest a sum equal to the amount of

Digitized by Google

Kandy Church.

subscriptions paid up, provided that such sum shall not exceed the sum of £1,500: And whereas it is expedient to provide for the immediate appointment and continual succession of trustees for the direction of the building of the said church, according to such plan and specification as shall be agreed upon between His Excellency the Governor of this colony and the trustees:

1 It shall be lawful for the Governor by warrant under his hand to authorize the issue from the treasury of this colony of any sum or sums not exceeding in all £1,500, to be applied, under the direction of trustees to be appointed as hereinafter provided, to the building of a church in Kandy: provided that no such issue shall be made until a moiety of the estimated costs thereof shall have been raised by subscription and lodged in the general treasury.

Governor empowered to issue £1,500 towards building the church.

Proviso.

2 Before any sum or sums of money shall be issued as aforesaid, the parties subscribing shall, by plurality of votes, elect from among themselves three persons to act as trustees; and such election shall take place at a meeting of the subscribers, of the time and place of holding which meeting fourteen days' notice shall have been previously published in the *Government Gazette;* and upon intimation being given to the Governor of the election of such three persons as aforesaid, the said Governor shall thereupon nominate three other persons to act as trustees; and the real estate in the said church, and in all lands and hereditaments thereunto belonging, shall be thereupon conveyed to the said trustees so elected and nominated and their successors for ever, duly elected and nominated as hereinafter provided, in trust for the purposes of the said church.

Three trustees to be elected by subscribers and three nominated by Governor.

3 And whereas a provisional committee of management for the purposes of the said church was appointed at a certain general meeting of the subscribers to the said church held at the Kandy Library on the 27th January, 1841; it is therefore enacted that upon the election and nomination of trustees as aforesaid the said provisional committee shall deliver over to the said trustees all deeds, books, plans, papers, and vouchers relating to the said church in their custody or power, and all and any sums of money, donations, or subscriptions given or subscribed for the purpose aforesaid, in their possession or control, and the said committee of management, and the office and duties thereof, shall thereupon cease and determine.

Committee of management to hand over papers, &c., to trustees.

4 The said trustees so elected and nominated as aforesaid shall continue to be and to act as trustees until the last Monday in the month of January, One thousand Eight hundred and Forty-four; and upon such day such trustees shall cease to have any power or authority so to act; and three persons shall be elected at a general meeting to be held on that day, and three other persons shall be nominated by the Governor as soon as convenient thereafter, to be the trustees of the said church for the year immediately ensuing; and a fresh election and nomination of trustees shall in like manner take place

Trustees to be elected annually.

Digitized by Google

upon every last Monday of the month of January thereafter, and copies of the minutes of every election or nomination of a trustee which shall take place under the provisions of any clause in this Ordinance shall be transmitted without delay to the Colonial Secretary and the registrar of the Bishop of the diocese: Provided always that no person shall be elected a trustee at any general meeting before the completion of the said church who shall not have paid up a subscription thereto of at least five pounds, or after its completion who shall not be a renter of at least three sittings therein; nor any person who shall not be a member of the United Church of England and Ireland.

Proviso.

Colonial chaplain to be ex-officio chairman of trustees.

5 The colonial chaplain for the time being duly appointed to the said church, or during his absence the clergyman duly appointed to officiate for him, shall at all times be ex-officio chairman of the trustees, but shall not have the power of voting by reason of being such chairman, except in cases where the votes of the trustees present shall be equal.

Vacancies occasioned by death, resignation, or removal of trustees, how to be filled.

6 Whenever any trustee shall die, or shall resign, or shall leave the colony, then, in case such trustee shall have been originally elected at a general meeting, his vacancy shall be filled by some other person duly qualified in like manner as such trustee, to be elected at a general meeting to be called for that purpose as soon as may be convenient by the continuing trustees, or the major part of them; and in case such trustee shall have been originally nominated by the Governor, his vacancy shall be filled as soon as may be convenient by some other person duly qualified, to be nominated in like manner: Provided always that if such general meeting shall not be called within one month after the death, resignation, or departure of such trustee from the colony, it shall be lawful for the Governor to nominate some person duly qualified as aforesaid to be a trustee.

Proviso.

Sittings in church how to be appropriated.

7 The trustees for the time being duly nominated and elected as aforesaid, or the major part of them, are hereby authorized and required to set apart, as soon as conveniently may be after the completion of the said church, one sixth part of the whole number of sittings therein, to be appropriated, free of any charge whatever, to the use and accommodation of the poorer classes of the population; and also one pew, containing not more than six sittings nor less than four, for the use and occupation, free from all charges, of the clergyman licensed to officiate in the said church; and the remaining sittings, after due provision shall have been made for the accommodation of the Governor and of the military, shall be assigned to the trustees for the time being and their successors for the purposes hereinafter mentioned.

Trustees to fix the rent of sittings annually.

8 It shall and may be lawful for the trustees for the time being, or the major part of them, and they are hereby required so soon as such partition of the church shall have taken place as in the preceding clause mentioned, to assess

Digitized by Google

and fix a rent or rate for each pew or sitting therein, with the exception of such pews or sittings as shall have been set apart and reserved as aforesaid, and to make agreements and contracts with any person desirous to engage the same, according to such assessment; and such rate or rent shall be in force for one year from the time of the assessment thereof, and at the expiration of such year the trustees for the time being shall assess and fix a fresh rate or rent for the year immediately following; and a fresh assessment shall in like manner be made annually and every year; and the trustees for the time being shall be at all times empowered to make agreements and contracts in respect of any pew or sitting which shall be vacant: Provided always that if it shall at any time appear to the trustees, or the major part of them, that such annual assessment will be insufficient to defray the several charges and costs necessary for effecting and providing all things required by this Ordinance, it shall and may be lawful for such trustees, or the major part of them, by ten days' previous notice in writing affixed in some conspicuous place in the said church, to call a general meeting for the purpose of taking into consideration the expediency of amending and increasing such assessment; and if it shall appear to the majority of such meeting, not being fewer in number than twenty, that such assessment will not be sufficient to provide for all such necessary costs and charges, it shall and may be lawful for the said majority to substitute such higher assessment as by them shall be deemed sufficient to meet such costs and charges, and such higher rate shall thereupon become due and payable and shall continue to be charged and collected for the same period that the rate for which it is so substituted would otherwise have been in force.

Proviso.

Subscribers of £5 to have priority of choice of sittings.

9 Every subscriber towards the building of the said church to the amount of not less than five pounds shall have a right in the first instance to become a renter of a pew or sitting in preference to any other person who shall not have so subscribed, and such subscribers shall, amongst themselves, have priority in the choice of pews or sittings, not exceeding six sittings, according to the amount of their subscriptions, the subscriber to the larger amount to have the prior choice, and the choice of subscribers to an equal amount to be determined, if need be, by lot.

Party having engaged a sitting not to be disturbed.

10 Any person having engaged any pew or sitting, and continuing to pay rent for the same according to the rate fixed, and also conducting himself or herself in the said church so as not wilfully or maliciously to disturb the performance of public worship, or to molest any part of the congregation attending the same, shall not be, under any pretence whatever, removed or ejected without his or her own consent from the occupation of such pew or sitting, at all times when the said church shall be open for the performance of public worship, the ministration of any sacrament, or other rite or ceremony, according to the use of the United Church of England and Ireland: Provided

Proviso.

Digitized by Google

nevertheless, that if any person having engaged any pew or sittings in the said church under agreement to pay for the same, according to the rate or rent assessed thereupon, shall suffer such rent to fall into arrear, and to continue unpaid for three months after the same shall have been demanded by the trustees, or by any person empowered by them or the major part of them, or if any person having engaged as aforesaid any such pew or sitting shall refuse to pay for the same such increased rate of rent as the trustees, according to the provisions hereinbefore described, shall have assessed and affixed, or if any person engaging and occupying any such pew or sittings, and continuing to pay the rent assessed upon the same, shall by any unsuitable noise, gesture, or deportment, wilfully and irreverently interrupt the celebration of public worship, or shall designedly and habitually disturb any part of the congregation within the said church, in all such cases it shall and may be lawful for the trustees to issue a monition to every such defaulter or offender, and in case such defaulter or offender shall not forthwith pay all such arrears, or shall not amend and desist from the practice so complained of, it shall be lawful for the said trustees to convene a general meeting, to whom it shall be competent to authorize the said trustees to declare such pew or sittings occupied by the party complained of to be vacant.

Trustees authorized to permit the erection of monuments and digging of vaults, with the previous consent of the Bishop of the diocese.

11 It shall and may be lawful for the major part of the trustees, with the previous consent of the Bishop of the diocese, and with his approval of any proposed epitaph or inscription, to permit any monuments to be erected or placed in such parts of the said church, or of the enclosed ground about the same, or of the burial ground belonging thereto, as they may deem convenient, or vaults to be dug and made in the said burial ground, upon payment to the said trustees for the use of the said church, for such permission by the person or persons desiring to erect or place any monument in the said church or enclosed ground about the same, or in the said burial ground, or to dig and make any vault in the said burial ground, of such charges as are contained and set forth in the schedule hereunto annexed, over and above the fees which may be legally demanded for burial; and it shall be lawful for any person or persons erecting or placing any monument in the said church or enclosed ground about the same or digging or making any vault in the said burial ground, by and with such permission as aforesaid, to have and maintain and keep up such monument or vault, according to the terms of such permission, to and for the sole and separate use of the said person or persons and his or their heirs for ever.

Bodies not to be buried within or near the church.

12 It shall not be lawful to bury any body within the said church or within the enclosed ground about the same.

Trustees to collect all dues to the church, and to

13 It shall be lawful for the trustees for the time being, or the major part of them, and they are hereby required to collect and gather, or cause to be collected or gathered, all

Digitized by Google

Kandy Church.

sums of money which shall be due for pews or sittings in the said church, and all subscriptions and donations thereunto, and all rents and revenues that may at any time arise out of any land or hereditaments belonging to the said church, and all fees or payments for monuments or vaults, and to apply for the said sums and to sue for the recovery of the same from all persons who shall fail or refuse to pay the same; and the said trustees shall, out of the said sums so received or recovered, regularly pay the salaries allotted to all lay persons holding any office in or about the said church, according to such rates and at such periods as shall be determined upon by the majority of the said trustees, and shall apply the surplus in such repairs and such improvement of the said church and premises as shall to them appear most expedient.

appropriate them in payment of salaries, repairs, &c.

14 It shall be lawful for the trustees for the time being, or the major part of them, to make or enter into, perform, and execute, and compel the performance and execution of all such contracts and agreements, matters, and things, and to commence and maintain all such suits and actions as they shall deem necessary to the performance of the trust reposed in them; and all such contracts and agreements shall and may be entered into and enforced, and all such suits and actions be brought by them, in the name of "the trustees of the church at Kandy" or "the trustees of ——— church at Kandy" (describing the same by its name, after it shall have been named at consecration), as the case may require, without specifying the christian or surnames of the trustees, and no action shall abate by reason of the death or removal or going out of office of any trustee; and all suits or actions, the cause of which shall rise or accrue to any person whatsoever from or by reason of any contract or agreement or any other matter or thing made or entered into, done, or performed by the said trustees in the execution of the said trust, shall be brought by such person against the said trustees under the name and title aforesaid.

Actions to be brought by and against trustees

15 One person, not being a trustee, shall be elected at a general meeting to be called by the trustees immediately after the completion of the building of the said church, to be an auditor of the accounts rendered by the trustees of the said building; and one other person, not being a trustee, shall be nominated by the Governor to be an auditor for the same purpose; and one person shall thereafter be elected at a general meeting on the second Monday in every January to be an auditor of the yearly accounts of the said trustees; and one other person, not being a trustee, shall be thereupon nominated by the Governor to be an auditor for the same purpose and during the same period.

Auditors to be elected annually.

16 The trustees shall keep an account wherein they shall enter all moneys received and paid by them under and by virtue of the provisions of this Ordinance, which account the auditors, or either of them, may inspect at

Trustees to keep annual accounts, and to submit them, with auditors'

Digitized by Google

report, at a general meeting every year.

all reasonable times; and the said account, together with any report of the auditors or either of them thereon, shall be laid before the general annual meetings to be held on the last Monday of the month of January, and the said accounts shall be thereupon published in the *Government Gazette.*

Trustees to call a general meeting upon receiving a requisition signed by twenty subscribers or renters of sittings.

17 It shall be lawful for the trustees for the time being, or the major part of them, and they are hereby required, to call a general meeting of the subscribers or renters of sittings, as the case may be, within twelve days after receiving any requisition in writing to that effect, signed by not less than twenty of such subscribers or renters; and ten days' notice of the time and place of holding such general meeting shall be affixed in some conspicuous part of the said church, when completed, or until its completion in some conspicuous place or places within the town of Kandy.

Who to vote at general meetings.

18 The right of voting at every general meeting, until the said church shall have been reported by the proper authority to be completed and fit for use, shall be vested in subscribers who have paid up their subscriptions previous to the date of the notice to convene such general meeting, and that from and after such time as the said church shall have been so reported to be completed and fit for use the right of voting shall be vested in renters of sittings in the said church, who shall have duly paid up their rent: Provided always that no such subscriber or renter of sittings shall on any occasion be allowed to give more than one vote.

Proviso.

No person to read prayers or preach except colonial chaplain or person officiating for him.

19 No person shall be suffered to sing or say the common or open prayer, or to administer the sacraments, or to preach any sermon in the said church, except the colonial chaplain duly appointed to the said church, or some clergyman duly authorized to officiate for him.

SCHEDULE.

Erecting a tablet or monument in the church, not less than five pounds nor more than twenty pounds.

Erecting a monument in the ground adjoining the church, not being the burial ground, any sum not less than three pounds nor more than ten pounds.

Burial in a brick or stone grave in the burial ground, one pound.

Headstone or footstone (each), ten shillings.

A stone covering over such grave, one pound.

A vault, for each person it is capable of containing, one pound ten shillings.

A raised tomb over a vault, for each person it is capable of containing, one pound ten shillings.

29th September, 1842.

Digitized by Google

No. 14 of 1843.

For providing for the better Security and Recovery of Debts due to the Crown.

WHEREAS it is expedient to repeal the Ordinance No. 1 of 1843, and to make further provision in lieu thereof, as well for the security as for the recovery of all debts due to the Crown throughout this island and its dependencies: Preamble.

1 It is therefore hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, that the said Ordinance No. 1 of 1843, entitled "For providing for the better Security and Recovery of Debts due to the Crown," shall be and the same is hereby repealed, save and excepting as to all suits or proceedings commenced or had thereon, and save and except as to the repeal of any former enactment therein contained. Ordinance No. 1 of 1843 repealed.

2 It shall be lawful for any government agent or assistant government agent (or other person duly authorized by writing signed by such government agent) within his province or district, and upon his own knowledge of the default of payment by any debtor to Her Majesty, or notice to him given of any debt having accrued due to Her Majesty, promptly and immediately to seize, take, and in safe custody to keep, but without removing the same (except in those cases only where there are no adequate means for safely and securely keeping the said property at the place where it is seized, and no sufficient security given for the value thereof), all and every the property of any debtor or debtors to the Crown, to an amount computed to be sufficient to cover the said debt so due and owing and the costs attending the same. Government agent to seize property of debtor upon knowledge or notice of debt.

3 Within seven days at farthest (exclusive of Sundays and other authorized public holidays) after such seizure as aforesaid, a libel or information setting forth the nature and amount of the debt so due to Her Majesty, shall be filed in any court having jurisdiction in the case, and every such court, upon any such libel or information being filed, together with the certificate of the property seized, signed by the person making the seizure, is hereby required to deliver to the fiscal a warrant to sequester the property of the said debtor, and any further proceedings which may be had thereon shall be according to such general rules of practice as now are or hereafter may be framed by the judges of the Supreme Court. Notice, libel, or information to be filed in court. Process thereupon.

4 All lands and tenements which any treasurer, government agent, assistant government agent, collector of customs, government farmer or renter, or other officer employed in the collection, charge, receipt, or expenditure of the revenue, public money, stores, or other property belonging to Government, or any other public accountant, now hath or at any time hereafter shall have, within the Property of public accountant liable for debt, &c.

Digitized by Google

time during which he shall respectively remain accountable to Government, shall be liable for the payment of all arrearages or debts, and all fines, penalties, and forfeitures due or adjudged to Her Majesty, her heirs and successors, by or from such officer or public accountant, and the said lands and tenements, and all other the goods, chattels, property, and effects of the said officer or public accountant, shall be seized and sold in execution for the payment of all such arrearages or debts, fines, penalties, or forfeitures as may be adjudged due and payable to Her Majesty, her heirs and successors, by any competent court of law, in like and as large and beneficial a manner, to all intents and purposes, as if the said officer or public accountant had, the day he became first an officer or accountant as aforesaid, specially mortgaged the said lands and tenements to Her Majesty, her heirs and successors, for the full payment of such arrearages or debts, fines, penalties, and forfeitures, and had also at the same time, by a notarial bond, acknowledged the said arrearages or debts, fines, penalties, and forfeitures to be due to Her Majesty, her heirs and successors.

Crown debts on mortgage, &c., preferred to all subsequent debts.

5 All debts due to Her Majesty, her heirs and successors, upon mortgage, judgment, award, bond, or other specialty, or upon simple contract, from any other persons than officers and public accountants mentioned in the preceding clause, shall be entitled from the accruing thereof respectively to a preference of payment over all specialties or other debts which shall, subsequent to such date, have been contracted by or become due from such Crown debtors to any other person or persons whatsoever.

Previous mortgage of immovable property not affected.

6 This Ordinance, or anything therein contained, shall not extend to or affect the right of any person or persons or body corporate who has or have any special mortgage or hypothecation of any land or other immovable property of a prior date to the claim of the Crown, and duly executed before a notary public or other person appointed by Government for the passing of deeds or other instruments, or to affect the right of any person or persons or body corporate who has or have a legal lien, mortgage, or privilege which is entitled to preference over any such prior special mortgage or hypothecation as aforesaid of immovable property, according to the Roman-Dutch law as now administered in the maritime districts of this island, anything before mentioned to the contrary thereof notwithstanding.

Nor previous transfer of movable property.

7 No sale, pledge, transfer, or alienation of any goods, chattels, or other movable property, upon good consideration and *bonâ fide* to any person or persons or body corporate, prior to the date of the execution of the Crown upon any judgment or award of any debt, fine, penalty, or forfeiture, being due and payable to it, shall be invalidated by anything contained in this Ordinance to the contrary notwithstanding.

Fraudulent transfer, &c., void.

8 All gifts, grants, sales, transfers, mortgages, bonds, suits, judgments, and executions, as well of lands and tenements as of goods and chattels, of any debtors to Her

Digitized by Google

Majesty, her heirs or successors, which have been or shall at any time hereafter be contrived, executed, had, or made by fraud, covin, collusion, or guile, to the end, purpose, and intent to delay, hinder, or defraud Her Majesty, her heirs or successors, of her or their just and lawful action, suit, debts, accounts, damages, penalties, or forfeitures, shall be from henceforth deemed and taken to be utterly void and of none effect; and any party or parties thereto, knowing of such fraud, covin, collusion, or guile, shall be guilty of an offence, and be liable on conviction thereof to a fine of the amount of one year's value of such lands or tenements, and the whole value of the said goods or chattels, as well as the consideration given for the same, and to imprisonment, with or without hard labour, for any period not exceeding one year.

Penalty.

9 And it is further enacted that this Ordinance shall commence and take effect from and after the Proclamation by the Governor in the *Government Gazette* that the same has been ratified and confirmed by Her Majesty, unless the same shall be passed by the unanimous votes of the Legislative Council, and all the judges for the time being of the Supreme Court shall certify under their respective hands to the Governor their unanimous opinion that it is expedient that the same should take immediate effect and should not be suspended for the signification of Her Majesty's pleasure. And if such unanimous votes of the legislature and such certificates of the unanimous opinion of the said judges shall be given in favour of the immediate operation of this Ordinance, the same shall commence and take effect immediately from and after the date and enactment of the same.

Ordinance when to take effect.

8th November, 1843.

No. 18 of 1843.

To declare illegal the Possession of certain Nets and Instruments within certain Limits.

(*See Regulation No. 3 of 1811, p. 60.*)

WHEREAS it is expedient to prohibit the possession, within certain limits, of certain nets and instruments which might otherwise be used to the detriment of Her Majesty's pearl banks:

Preamble.

1 The possession on land of any drifting net or other net, not being such as are used by men walking in the sea, or of any dredge or similar instrument, at any place within twelve miles of Tallaville or Talmanar, or at any place within twelve miles of any part of the shore at low water mark between Tallaville and Talmanar, shall be unlawful, and every such net, dredge, or instrument that shall at any time be found within such limits shall be forfeited; and every person who shall at any time have had any such net, dredge,

Possession of certain nets, dredges, and other instruments within certain limits illegal.

Penalty.

Digitized by Google

or instrument in his possession, or shall have moved or concealed, or assisted in or procured the movement or concealment of any such net, dredge, or instrument within such limits, shall be guilty of an offence, and be liable, on conviction thereof, to a fine not exceeding ten pounds, or to imprisonment, with or without hard labour, for any period not exceeding six months.

Peace officers may make search for such nets, &c., and seize offenders.

2 It shall be lawful for every officer of the customs, and every peace officer, to search any house or premises within any such limits as aforesaid where he shall have good reason to believe any such net, dredge, or instrument as aforesaid to be kept or concealed, and to take the same into his charge, and to seize and take every person offending against this Ordinance before any competent court or justice of the peace, to be dealt with according to law.

30th November, 1843.

No. 1 of 1844.

To make provision for the more easily ascertaining the Boundaries of the several Landed Estates possessed by Her Majesty's Subjects within this Colony.

(*See No. 12 of 1840, p. 115.*)

Preamble.

WHEREAS much inconvenience is experienced from the want of any defined boundaries or landmarks of the several estates possessed by Her Majesty's subjects within this colony, and it is expedient to provide a remedy for the same: And whereas by the seventh clause of the Ordinance No. 12 of 1840 it is enacted that the government agent of any province may, with the consent of the Governor, grant to any person possessing land within the province a certificate of the Crown having no claim to such land, and it appears that the provision to that effect may conveniently be extended:

Government agent may demand production of title deeds.

1 It shall at any time be lawful for the government agent of the province to demand in writing of any person claiming to be the owner of any land within the same the production of every deed, document, and instrument upon which such person founds such claim; and if the occupier or person having the superintendence or management of any such land, not being himself the alleged owner thereof, shall refuse to give full information respecting the name and residence of such alleged owner, upon being requested so to do by the government agent, or if such alleged owner shall refuse to produce to the government agent, within ten days after being requested so to do, every deed, document, and instrument upon which he founds his claim to the said land, and which shall be in his possession, or if any such deed, document, or instrument shall not be in his possession, shall refuse fully to inform the government agent, upon appli-

Digitized by Google

cation, in whose possession they are, or if any person having in his possession any such deed, document, or instrument, shall refuse to produce the same within ten days after having been requested so to do in writing by the government agent, every such occupier, superintendent or manager, alleged owner, and person so refusing shall be guilty of an offence, and be liable on conviction thereof to any fine not exceeding five pounds.

Penalty on refusal.

Where no survey, government agent may order one to be made.

2 If it shall appear that the person claiming to be the owner of any land is not in possession of any deed, document, or instrument in support of such claim, or if there shall not be attached or belonging to such deed, document, or instrument a correct and authenticated survey of the land claimed by virtue of such deed, document, or instrument, it shall be lawful for the government agent of the province, if he shall see fit so to do, wherein such land shall be situated, to cause a survey thereof to be made, and to recover the costs thereof from such claimant, and such government agent shall forthwith proceed to grant to such claimant a certificate of the Crown having no claim to such land, in manner provided by the seventh clause of the Ordinance No. 12 of 1840.

Trespassers, unless wilful, not liable.

3 From and after the passing of this Ordinance, no person shall be liable to any action for trespass for any entry upon any land within this colony, or to any action for damages in respect of any injury done to the same, if the title to such land shall be founded on any grant from the Crown, or if the person claiming to be the owner thereof shall have attached or belonging to the deed, document, or instrument by virtue of which he claims such land, a correct and authenticated survey thereof, or shall at any time have received a certificate that the Crown has no claim upon such land, unless the boundaries of such land shall be clearly defined along their whole line, or at such intervals as shall accurately show their whole line, by some wall, bank, ditch, fence, posts, stones, or other sufficient landmarks or boundary, unless such trespass or injury shall have been wilfully committed.

Where party has had possession for three years of land erroneously granted by the Crown.

4 If the Crown shall have heretofore granted, or shall hereafter grant, any land which shall have been previously granted by the Crown to any party, or which shall be possessed by any subject of the Crown in manner provided by the preceding clause of this Ordinance, and the boundaries whereof shall not have been or shall not be clearly defined in the manner provided by the said clause at the time of making such erroneous grant, and if the party to whom any such erroneous grant shall have been made shall have entered upon such land, and shall have clearly defined the boundaries thereof as aforesaid, and remained in undisturbed possession thereof for the space of three years subsequent to the passing of this Ordinance, and shall have cultivated or improved the same, the party so in possession shall be entitled to retain the land so cultivated and improved upon payment to the party having a title to the same under the original grant from the

Digitized by Google

Crown, or under any other good and sufficient title, of the value of such land at the time such erroneous grant shall have been made (which value shall be determined, if necessary, by arbitration in manner hereinafter provided): And upon such payment being made to such party, and in consideration thereof, such party is hereby required to execute a good and valid transfer of such land to the party so in possession thereof as aforesaid, and his heirs, upon application by and at the sole cost of the said party so in possession; and the said party so in possession shall be entitled to recover from the Crown the amount paid to the Crown in respect of such erroneous grant.

Where less than three years.

5 If the Crown shall have heretofore granted, or shall hereafter grant, any land which shall have been previously granted by the Crown to any party, or which shall be possessed by any subject of the Crown in manner provided by the third clause of this Ordinance, and the boundaries whereof shall not have been or shall not be clearly defined in the manner provided by the said clause at the time of making such erroneous grant, and if the party to whom such erroneous grant shall have been made shall have entered upon such land and clearly defined the boundaries thereof, and shall have cultivated or improved the same, but shall not have remained in undisturbed possession thereof for the space of three years subsequent to the passing of this Ordinance, then the first grantee or proprietor shall not be entitled to enter upon and take possession of the land so cultivated or improved except upon payment to the cultivator or improver thereof of three-fourths of the improved value of such land, less the value of such land in its uncultivated state, such last-mentioned value to be taken to be the same as that of similar land adjoining; and such questions of value shall be determined by arbitration in manner hereinafter provided; and the party having so cultivated or improved the same shall be entitled to recover from the Crown the amount paid to the Crown by such party in respect of such erroneous grant:

Proviso.

Provided always that if the first grantee or proprietor of such land shall decline to enter into possession of the land so cultivated or improved, he shall be entitled to recover from the cultivator or improver thereof the value of the land and one-fourth of the value of the cultivation or improvements thereupon, such value to be determined by arbitration in manner hereinafter provided; and upon payment of such amount the said first grantee or proprietor shall, upon application by and at the cost of the party having cultivated or improved such land, execute a good and valid transfer thereof to such party and his heirs; and the said last-mentioned party shall be entitled to recover from the Crown the amount paid to the Crown in respect of such erroneous grant: And provided further, that if it shall appear that the party having claim to such land under such first grant from the Crown, or under any other good and valid title, had full knowledge of such land being so cultivated or improved, and wilfully, fraudulently, or negligently

Digitized by Google

abstained from giving notice to the party cultivating or improving the same that such land was the property of the party having such claim as aforesaid, then the party so having cultivated or improved the same shall be entitled to retain possession of such land upon the same terms and in such and the like manner as is declared in the preceding clause of this Ordinance in respect of parties who shall have cultivated or improved land erroneously granted to them by the Crown and shall have remained in undisturbed possession of the same for the space of three years subsequent to the passing of this Ordinance.

Where party has had possession for not less than two nor more than five years of uncultivated land belonging to another.

6 If any person shall without fraud and in perfect good faith enter upon any uncultivated land which shall be the property of any of Her Majesty's subjects, the boundaries of which shall not be clearly defined as aforesaid, and shall cultivate or improve the same, and shall remain in undisturbed possession thereof for any period not less than two nor more than five years, the proprietor of such land so cultivated or improved shall not be entitled to enter upon or take possession of the same, unless upon payment to the party by whom it shall have been so cultivated or improved of three-fourths of the improved value of such land, less the value of such land in its uncultivated state, such last-mentioned value to be taken to be the same as that of similar land in the neighbourhood; and such questions of value shall be determined by arbitration in manner hereinafter provided: Provided always that it shall be lawful for such proprietor, if he shall think fit, to recover from the party having cultivated or improved such land one-fourth of the value of the land, and one-fourth of the value of the cultivation or improvements thereupon, and upon payment of such amount to such proprietor such proprietor shall, on application at the cost of the party so having cultivated or improved such land, execute a good and valid transfer thereof to such party and his heirs; and provided further, that if it shall appear that the proprietor of such land had full knowledge of such land being so cultivated or improved, and wilfully, fraudulently, or negligently abstained from giving notice to the party so cultivating or improving the same that such land was his property, such proprietor shall not be entitled to re-enter upon such land, except upon payment to the party having cultivated or improved the same of the full improved value of such land, less the value thereof in its uncultivated state; and such questions of value shall be determined by arbitration in manner hereinafter provided.

Proviso.

Where more than five years.

7 If any person shall without fraud and in perfect good faith enter upon any uncultivated land which be the property of any of Her Majesty's subjects, the boundaries of which shall not be clearly defined as aforesaid, and shall cultivate or improve the same, and shall remain in undisturbed possession thereof for upwards of five years, the proprietor of such land shall not be entitled to enter upon and take

Digitized by Google

possession of such land so cultivated or improved, unless upon payment to the party having cultivated or improved the same of the full improved value thereof, less the value of the land in its uncultivated state, which last-mentioned value shall be deemed and taken to be the same as that of similar land in the neighbourhood; and such questions of value shall be determined, if necessary, by arbitration in manner hereinafter provided: Provided nevertheless, that such proprietor shall, if he elect so to do, have full power and authority to claim and recover from the party having cultivated or improved such land the value of such land in its uncultivated state, such value to be taken to be the same as that of similar land in the neighbourhood at the time of valuation, and to be determined, if necessary, by arbitration in manner hereinafter provided; and upon payment of such amount to such proprietor, and in consideration thereof, such proprietor is hereby required to execute a good and valid transfer thereof to the party having cultivated or improved the same, and his heirs, the cost of such transfer to be borne by such party: and provided further, that if it shall appear that the proprietor of such land had, at any time within such five years, full knowledge of such land being so cultivated or improved, and wilfully, fraudulently, or negligently abstained from giving notice to the party cultivating or improving the same that such land was his property, then it shall be competent to such party, upon payment to such proprietor of the value of such land when first entered upon by such party (such value to be determined if necessary by arbitration in manner hereinafter provided), to call upon such proprietor, and such proprietor is hereby required, to execute a good and valid transfer thereof to such party and his heirs, at the cost of such party.

Proviso.

Proprietors of adjoining lands may call upon each other to define boundaries.

8 It shall be lawful for any subject of the Crown possessed of land in manner provided by the third clause of this Ordinance, the boundaries of which shall not be clearly defined as aforesaid, or any agent on his behalf, to call upon the proprietor or occupant of any land adjoining thereunto, not being Her Majesty, her heirs or successors, or upon his agent, by notice in writing under the hand of such possessor, to be served personally on such last-mentioned proprietor, occupant, or agent, or in the event of their absence from the colony, or of their not being known, by affixing the same for the space of one month on some conspicuous place in every cutcherry and court house within the district in which such land shall be situated, and upon the land itself, to cause one-half of such boundary to be made or renewed as shall require to be made or renewed, except where the liability of making or renewing such boundary or any part thereof shall by any law, custom, or agreement be otherwise determined; and if the making or renewal of such boundary shall not be commenced within thirty days after the service of such notice, and be diligently proceeded with, such first-mentioned possessor shall be entitled to cause such half of such boundary to be made or renewed, and to recover twice

Digitized by Google

the amount of the costs necessarily incurred therein from the party failing to make or renew his share of such boundary: Provided always that where the land of any of Her Majesty's subjects shall adjoin land belonging to Her Majesty, it shall be competent for the government agent or any assistant government agent of the province in which such lands so adjoin, to call upon such subject, by notice to be served in manner provided in respect of the notice hereinbefore mentioned, to make or renew the whole of such boundary, or such part thereof as shall require to be made or renewed; and if the making or renewal of such boundary shall not be commenced within thirty days after the service of such notice, and diligently proceeded with, the said government agent or assistant government agent shall be entitled to cause such boundary to be made or renewed, and to recover from such subject twice the amount of the costs necessarily incurred therein.

Where boundaries have been made and adjoining lands subsequently purchased.

9 If any subject of the Crown possessed of land in manner provided by the third clause of this Ordinance shall, after the passing of this Ordinance, clearly define the boundaries of his land as aforesaid before the lands immediately adjoining thereunto shall have been duly granted by the Crown, or otherwise held as private property, the owner of the land the boundaries of which shall have been so made shall be authorized to claim and recover from the person or persons who shall afterwards become the proprietor or proprietors of such adjoining lands one-half of the actual value of the boundaries then existing between the said adjoining lands, and such value shall be determined, if necessary, by arbitration in manner hereinafter provided as soon as is practicable after such adjoining land shall have been granted by the Crown, or otherwise held as private property as aforesaid.

Disputes to be referred to arbitration.

10 Wherever any question shall be left under the provisions of this Ordinance to be determined by arbitration, such arbitration shall be referred to two persons, one of whom shall be nominated by each of the parties, and the amount which shall be awarded under such arbitration shall, upon due proof and verification of such award before any competent court, be recovered in the same manner that such amount would have been recoverable if it had been decreed to be due by the judgment of such court: Provided always that in case such two persons so nominated as aforesaid shall not agree in the amount of the sum to be paid within the space of one calendar month next after such reference shall be made to them, then and in such case the same shall be referred to the determination of such indifferent person as the said arbitrators by any writing under their hands shall nominate and appoint as umpire in the case, and the decision of such umpire shall be conclusive, and the amount awarded by him shall be recoverable in like manner as is hereinbefore provided in respect to the amount awarded by the original referees: Provided also, that in case either of the

Proviso.

Digitized by Google

parties in difference shall neglect or refuse, for the space of one calendar month after notice in writing given by the other party for that purpose, to join in the appointment of such arbitrators as aforesaid, it shall and may be lawful for the arbitrator to be chosen by the party giving such notice to nominate another arbitrator to act with him, and the award of such arbitrators, or if they shall not agree in an award, then the award of the umpire, whom they are hereby required to nominate in like manner as hereinbefore provided in respect of the umpire to be nominated by the original referees, shall be binding and conclusive, and the amount awarded under it be recoverable in like manner as if the party so neglecting or refusing had chosen an arbitrator who had actually joined and made an award therein.

Proviso.

11 In all cases where any dispute or difference shall arise between the respective owners, or persons legally possessed of such adjoining lands, as to the necessity or sufficiency of any boundary as aforesaid, then and in every such case the same shall be referred to arbitration in like manner, and shall be subject to the like award in manner hereinbefore provided, which award shall in like manner be binding and conclusive.

Surveyor-General to inspect boundaries:

12 It shall be lawful for any person possessed of land in manner provided by the third clause of this Ordinance, who shall have made boundaries to the same, to call upon the Surveyor-General to inspect such boundaries, or cause the same to be inspected by some proper person, and the Surveyor-General is hereby authorized and required to inspect or cause the same to be so inspected, upon payment to him, or into his office, or into the office of the government agent of the province, at the rate of one shilling for every mile that the Surveyor-General, or person authorized by him to make such inspection, shall have to travel to and from the land in respect of which inspection is applied for, and at the rate of twenty shillings for every mile of boundary that the Surveyor-General or person as aforesaid shall be called upon to inspect; the extent of such boundary to be determined by the figure of survey attached to the title-deed of the land, and the person so inspecting such boundaries shall report to the Surveyor-General fully as to the nature thereof; and if it shall appear to the Surveyor-General from such report, or from his own personal inspection, that such boundaries are sufficiently marked, and if the full and fair payment of the costs of travelling and inspection shall have been duly made, he shall sign and give to the party applying for the same a certificate to that effect; and such certificate shall express the period during which, in the opinion of the Surveyor-General, such boundaries will continue sufficiently clear to indicate the land in respect of which they shall have been made, and during such period the boundaries of such land shall be deemed and taken to be sufficiently defined for the purposes of this Ordinance.

and to give certificate.

Digitized by Google

13 No person shall acquire any right under the provisions of this Ordinance in respect of the entry upon and cultivation of land which shall be the property, sole or joint, of any person under twenty-one years of age, or of any insane person: And provided further, that no person shall be subject to the liabilities hereinbefore declared for the not making of a proper boundary to the land possessed by him, if the making thereof shall have been stayed by any order or judgment of any competent court of law.

Ordinance not to affect property of minors or insane persons, &c.

Proviso.

14 Every person who shall wilfully and knowingly remove, destroy, or efface, or attempt to remove, destroy, or efface, any landmark or boundary which shall serve to mark the limits of any land, except for the purpose of repairing the same, shall be guilty of an offence, and be liable on conviction thereof to payment of any fine not exceeding fifty pounds, or to imprisonment, with or without hard labour, for any period not exceeding one year.

Penalty on removing landmarks.

17th January, 1844.

No. 8 of 1844.

An Ordinance for the Suppression of Lotteries.

WHEREAS great mischief has been found to result from the existence of lotteries:

Preamble.

1 All lotteries and all undertakings in the nature of lotteries, under whatsoever denomination or pretence they shall be set up, carried on, or kept, shall be deemed and are hereby declared to be common nuisances and against law.

Lotteries declared nuisances.

2 Repealed by No. 3 of 1883, itself repealed by No. 15 of 1898.

3 If any person shall draw, or cause to be drawn, any ticket, lot, chance, share, number, or figure in any such lottery, or undertaking in the nature of a lottery, or shall by playing, throwing, or in any other way whatsoever, endeavour to win or obtain any prize in, or to derive any benefit for himself or for any other person from any such lottery or undertaking, every such person shall be guilty of an offence, and be liable on conviction thereof to a fine of five pounds.

Person drawing ticket in lottery.

4 If any person shall, within this island and its dependencies, sell, deliver, or dispose of, purchase, or wilfully receive any ticket, receipt, chance, share, or number, or anything in the nature or having the effect of a ticket, receipt, chance, share, or number in any lottery, or undertaking in the nature of a lottery, set up, carried on, or kept, or to be set up, carried on, or kept in any place, either within or beyond this island and its dependencies, shall be guilty of an offence, and be liable on conviction thereof to a fine of five pounds.

Person selling or buying ticket.

Digitized by Google

Lotteries.

Persons assisting in setting up lottery.

5 If any person shall, under any pretence, device, or description whatsoever, agree to pay any sum, or deliver any goods, or to do or forbear doing anything for the benefit of any person, whether with or without consideration, on any event or contingency relative or applicable to the drawing, winning, or obtaining of any ticket, lot, chance, share, number, or figure in any such lottery, or undertaking in the nature of a lottery, or shall make, print, or publish any proposal, under any denomination, name, or title whatever, for any of the purposes aforesaid, every such person shall be guilty of an offence, and be liable on conviction thereof to a fine of five pounds.

Search for lottery.

6 It shall be lawful for any person holding a warrant in that behalf under the hand of any competent justice of the peace, who is hereby empowered to grant the same upon complaint or information on oath of the commission of any offence specified in this clause, or for any superintendent or officer of police, or any peace officer whatsoever, upon reasonable grounds of suspicion that any such lottery, or undertaking in the nature thereof, is set up, kept, or carried on in any house, premises, or place, or that anything has lately been done, or is then in the course of being done, in any house, premises, or place in furtherance of any such lottery or undertaking, to break open or otherwise forcibly enter any such house, premises, or place, after having given sufficient intimation of his object and not having obtained admission, and to seize and apprehend all persons whom he shall find therein doing or assisting in the doing of anything respecting any such lottery or undertaking which shall be declared punishable by this Ordinance, and to seize all papers, instruments, and things employed in or about such lottery or undertaking, and to take such persons and things before some competent justice of the peace or court to be dealt with according to law; and every person obstructing, opposing, molesting, or hindering, and every person aiding in or inciting to the opposing, molesting, or hindering any such superintendent or officer of police, or peace officer, or any person acting under the authority of such warrant as aforesaid, in the due entering into any such house or premises or place, or in the seizing, detaining, or conveying any such offenders, or any such papers, instruments, or things before such justice or court, shall be guilty of an offence, and be liable on conviction thereof to a fine of five pounds.

No prosecution but by authority of Attorney-General.

[§ 3, 1 of 1883]

7 It shall not be competent for any court within this island to try any person for any offence or alleged offence against this Ordinance, unless the prosecution of such person for such offence shall have been expressly authorized by the *Attorney-General.*

Informers' share of fines.

8 One-half of all fines recovered under the provisions of this Ordinance shall go to our Lady the Queen, and the other half to the informers; and if any person upon whom any fine shall be imposed under the provisions of this Ordinance shall fail to pay the same, the informer shall be entitled

Digitized by Google

to receive from the government agent the amount of the share of such fine to which he would have been entitled if the same had been paid; provided that the said government agent shall not be bound to pay in respect of any one such share any sum exceeding the sum of seven pounds and ten shillings.

9 No person shall be deemed incompetent to give evidence at the trial of any party for any offence created by this Ordinance by reason of any reward or share to which he would be entitled under the provisions of the preceding clause upon the conviction of such party, anything in the Ordinance No. 6 of 1834, entitled "Ordinance declaring English rules of evidence to be in force in this island, unless in cases otherwise expressly provided for by law; and prescribing the course by which evidence is to be obtained in certain cases," to the contrary notwithstanding.

Informer competent witness.

[*Repealed by 14 of 1895*]

10th July, 1844.

No. 10 of 1844.

An Ordinance to amend the Law relating to the Distillation and Sale of Arrack, Rum, and Toddy within these Settlements.

(*See No. 12 of 1891, No. 13 of 1891, and No. 9 of 1892.*)

WHEREAS it is expedient to amend the law relative to the distillation and sale of arrack, rum, and toddy within these settlements:

Preamble.

1 *It* is therefore hereby enacted by the Governor of *Ceylon*, with the advice and consent of the Legislative Council thereof, that the Ordinance No. 5 of 1834, entitled "For consolidating and amending the Laws now in force for securing the revenue derived from the duty imposed upon Stills used for the distillation of Arrack and the retail sale of Arrack and Toddy," and the Ordinance No. 13 of 1840, entitled "To amend the Law relative to Toddy," shall be and the same are hereby repealed, save and except as to the repeal of any former enactments therein contained, and except as to any arrears of duties or penalties thereby imposed which may remain unpaid, or as to any offences which may have been committed against the same.

Ordinances No. 5 of 1834 and No. 13 of 1840 repealed.

2 It shall not be lawful for any person or persons to have or keep any still whatever for the purpose of making, distilling, rectifying, or compounding spirits without having first obtained a license for that purpose under the provisions of this Ordinance, signed by the government agent of the province in which such still is intended to be had or kept: Provided always that persons in partnership carrying on any one such trade or business in one house or place only shall not be obliged to take out more than one such license in any one year; and that no one license which shall be granted by

Distiller to have license.

Digitized by Google

virtue of this Ordinance shall authorize or empower any person or persons to whom the same shall be granted to have, keep, or make use of any still, or to distil, rectify, or compound any spirits in any other house or premises than the house or premises mentioned in such license.

Restriction of distillation.

3 No license shall be granted for the distillation of spirit from any other substance than the produce of the cocoanut or other description of palm, or of the sugarcane.

Description of still and premises to be furnished.

4 Before any license shall be granted for distilling, rectifying, or compounding spirits, the person applying for the same shall furnish the government agent with a description of the still, setting forth its shape, dimensions, and proportions, and also a description of the premises in which it is intended to erect the same.

Distiller to make declaration of name and residence.

5 Before any license shall be granted for distilling, rectifying, or compounding spirits, the person applying for the same shall furnish the government agent with a declaration in writing setting forth the name or names and residence or residences of himself and of the principal person or persons under whose actual management or superintendence the said trade or business is intended to be carried on ; and further that such applicant is the owner of the still for the use of which he shall have applied for a license, or that he is duly authorized by the actual owner thereof to make such application ; and if the party making such declaration shall cease to be the owner or the authorized agent of the owner thereof, or if any other person shall be intrusted with the actual management or superintendence of such trade or business, further declaration thereof shall be forthwith made to the government agent, and every such declaration shall be signed by the party making the same, and shall be registered by the government agent in a register to be by him kept for that purpose ; and if any such declaration shall be false, the party making the same shall be guilty of an offence, and be liable on conviction to a fine of twenty pounds.

Premises to be duly secured.

6 No license shall be granted for the use of any still for the purpose of distilling, rectifying, or compounding spirits unless the premises within which such business is intended to be carried on shall be secured to the satisfaction of the government agent by a wall or otherwise.

Distiller to have store.

Spirits found out of store.

7 There shall be constructed upon the premises mentioned in the preceding clauses one or more safe and secure houses or stores, a particular description whereof shall be furnished to and registered by the government agent, and that all spirits when distilled shall be deposited therein; and any spirits which may be found in any part of the premises of any distiller, rectifier, or compounder, except in such houses or stores, shall be forfeited, unless the same shall be lawfully possessed by him under any of the provisions of this Ordinance ; and every person in the actual management or superintendence of the trade or business of any licensed distiller, rectifier, or compounder, on whose premises such

Digitized by Google

spirits shall be found, shall, whether he be himself the licensed distiller, rectifier, or compounder, or only the manager or superintendent, be guilty of an offence, and be liable on conviction to a penalty not exceeding five shillings for every gallon of spirits so found.

8 No tree, plant, or shrub shall be permitted to grow or remain within twenty feet of the buildings used by any distiller, rectifier, or compounder for the purpose of distilling, rectifying, compounding, or storing spirits, and any distiller, rectifier, or compounder, or his manager or superintendent, knowingly permitting any tree, plant, or shrub to grow or remain contrary to the provisions of this clause shall be guilty of an offence, and be liable on conviction to a fine of five pounds. Distillery to be kept clear of jungle.

9 The license hereinbefore required shall be issued by the government agent to the party applying for the same within ten days from the receipt of the application of such party: Provided always that it shall and may be lawful for any government agent to refuse to issue a license for the use of any still, or for distilling, rectifying, or compounding any spirits, provided that such refusal, and the reasons thereof, shall with all convenient despatch be reported to the Governor, by whom such refusal shall and may be confirmed or reversed. Issue of license. Agent may refuse license.

10 No license shall be issued by any government agent which shall authorize any person to have, keep, or make use of any still for making, distilling, rectifying, or compounding spirits, the body of which, without the head thereof, shall be of less capacity or content than one hundred and fifty gallons, unless such still shall be of such peculiar construction as shall, in the opinion of the government agent, render it unnecessary to require its body to be of so large a capacity as aforesaid. No still to contain less than 150 gallons.

11 (1) *Every license for the distillation of spirits which shall be granted under this Ordinance shall be as near as is material in the form A in schedule IV. hereto, and shall be in force for the period specified therein, and shall bear a stamp, to be furnished by the licensee to the government agent before the issue of any such license, of one hundred rupees for each year or portion of a year during which such license is to run.* *As to license for distillation of spirits.* [*§ 5, 13 of 1891*]

(2) *Every such license shall ordinarily be issued for the period not exceeding twelve months specified therein, but it shall be in the discretion of the government agent to issue a license under this section for a period to be specified in the license exceeding twelve months but not exceeding five years.*

12 It shall be lawful for any government agent to grant free of all charges, to any apothecary, chemist, or druggist applying for the same, a license (which shall remain in force for such time as to such government agent may appear expedient and which shall be stated in such license) to keep on his premises a still, the body of which, exclusive of the head Unless required for medical purposes.

Digitized by Google

thereof, shall not contain more than eight gallons, and to use the same for the distillation of spirit from any substance, anything in the 3rd clause of this Ordinance contained to the contrary notwithstanding, for the purposes of his trade only; and any apothecary, chemist, or druggist who shall have or keep any still, vessel, or utensil adapted for the purpose of distillation without such license, or who shall use or permit the use of any such still, vessel, or utensil, except for the preparation of medicines or other articles required *bonâ fide* for medical purposes, shall be guilty of an offence, and be liable on conviction to a fine of fifty pounds; and every such still, vessel, and utensil, and all spirits distilled by such apothecary, chemist, or druggist, shall be forfeited.

Penalty on illicit distillation.

13 Any person who shall distil any spirit from any other substance than the produce of the cocoanut or other description of palm, or of the sugarcane, unless under the provisions of the preceding clause of this Ordinance, or who shall, without obtaining a license as hereinbefore required, unless he be acting for and by the authority and for the benefit of and in conformity with the license granted to any licensed distiller, rectifier, or compounder, have or keep any still, vessel, or utensil adapted for the purpose of distilling, rectifying, or compounding spirits, or distil, rectify, or compound any spirits, or who, after the thirty-first day of December next after the date of any such license, and until such person shall have obtained a new license, for that purpose, shall continue to have or keep any still, vessel, or utensil as aforesaid, or to distil, rectify, or compound any spirits, or any licensed distiller, rectifier, or compounder, or manager or superintendent, who shall erect, place, or use any still, vessel, or utensil adapted for the purpose of distilling, rectifying, or compounding spirits upon any premises other than those mentioned in the license granted to such distiller, rectifier, or compounder, shall be guilty of an offence, and be liable on conviction to a fine of one hundred pounds, or to imprisonment with or without hard labour for six months, and to a further fine of five shillings for every gallon of spirits which may be proved to have been so distilled, rectified, or compounded; and every person knowingly procuring or inciting to or aiding or abetting in the commission of any such offence shall be equally guilty with the principal offender, and shall be punishable in like manner; and every such still, vessel, and utensil, and all such spirits, shall be forfeited.

Distiller not to sell less than thirty-five gallons of spirits.
[*§ 6, 13 of 1891*]

14 (1) *Every licensed distiller, rectifier, or compounder, and every person in the management or superintendence of the trade or business of any licensed distiller, rectifier, or compounder, who shall sell or dispose of, or knowingly cause or permit to be sold or disposed of on his account, any spirits in a less quantity than thirty-five gallons at any one time, shall be guilty of an offence, and shall upon a first conviction be liable to a fine not exceeding one hundred rupees, and upon every subsequent conviction to a fine not exceeding two hundred rupees, or to simple or rigorous imprisonment not exceeding six months, or to both.*

Digitized by Google

(2) *If the offender is a licensed distiller, rectifier, or compounder, the court before which he is convicted a second time shall, in addition to awarding any penalty or penalties authorized by this section, declare and adjudge any still, vessel, or utensil, together with any spirit or toddy found at the date of the offence on the premises in which he carried on his business, to be forfeited. All forfeitures may be sold or otherwise disposed of in such manner as the court may direct.*

15 Repealed by No. 3 of 1894.

Certificates of wholesale dealers void.

16 All certificates of registry which may have been heretofore granted to wholesale dealers in arrack shall be and the same are hereby declared to be void and of no effect.

Wholesale sale of spirits.

17 No sale of spirits distilled from the produce of the cocoanut or other description of palm, or of the sugarcane, shall be considered wholesale, unless the quantity sold amounts to or exceeds thirty-five gallons; and any wholesale dealer who shall sell or dispose of, or knowingly cause or permit to be sold or disposed of on his account, any such spirits in any less quantity than thirty-five gallons shall be guilty of an offence, and be liable on conviction to a fine of five pounds.

Wholesale dealer in spirits to have license.

18 It shall not be lawful for any person, other than a licensed distiller, rectifier, or compounder, with respect to the spirit lawfully distilled, rectified, or compounded by him, to deal by wholesale in spirits distilled from the produce of the cocoanut or other description of palm, or of the sugarcane, unless he shall first have obtained a license to that effect, as hereinafter mentioned, from the government agent of the province within which such wholesale dealing is intended to be carried on; and any person, except such licensed distiller, rectifier, or compounder as aforesaid, selling or disposing of such spirits by wholesale, or knowingly causing or permitting such spirits to be sold or disposed of by wholesale on his account, without such license as aforesaid, unless he be acting for and by the authority and for the benefit of and in conformity with the license granted to such wholesale dealer, shall be guilty of an offence, and be liable on conviction to a fine not exceeding fifty pounds, and to a further fine of five shillings for every gallon of spirits which shall be proved to have been so sold by him. **Penalty.**

And a secure storehouse.

19 It shall not be lawful for any person to deal by wholesale in spirits distilled from the produce of the cocoanut or other description of palm, or of the sugarcane, unless he shall have one or more safe and secure storehouses, which shall in no case be within any part of the dwelling house of such person or of any other person, for the purpose of depositing and keeping any such spirits which he may have in his possession; and any such spirits which may be found belonging to or in the possession of or in or upon any part of the premises of any wholesale dealer, and not within such storehouse as aforesaid, unless during the actual removal of

Digitized by Google

such spirits to or from such storehouse, or unless the same shall be lawfully possessed by him under any of the provisions of this Ordinance, shall be forfeited.

As to license to deal wholesale in spirits.
[§ 7, *13 of 1891*]

20 (1) *Every person who desires to obtain a license to deal by wholesale in spirits distilled from the produce of the cocoanut or other description of palm or sugarcane shall make an application in writing to that effect to the government agent of the province within which such wholesale dealing is to be carried on, containing a true and full description of the name and residence of the person making the same, and of the place in which his storehouse or storehouses shall be situate.*

(2) *Such government agent shall within ten days after the receipt of such application, and of the stamp to be furnished by the licensee as hereinafter mentioned, issue to the applicant a license to deal in such spirits by wholesale as near as is material according to the form B in schedule IV. hereto. Provided that if any government agent shall have any just and reasonable grounds for so doing, it shall be lawful for him to refuse to issue such license. Every such refusal, together with the government agent's reasons therefor, shall be reported forthwith to the Governor, by whom such refusal shall and may be confirmed or reversed.*

(3) *Every license issued under the provisions of this section shall be in force for the period specified therein, and shall bear a stamp, to be furnished by the licensee to the government agent before the issue of any such license, of one hundred rupees for each year or portion of a year during which such license is to run, and shall entitle the licensee to have in his possession any quantity of such spirits lawfully purchased or distilled either for exportation or for sale by wholesale.*

(4) *Every such license shall ordinarily be issued for the period not exceeding twelve months specified therein, but it shall be in the discretion of the government agent to issue a license under this section for a period to be specified in the license exceeding twelve months but not exceeding five years.*

Wholesale dealer to sell at store.

21 It shall not be lawful for any wholesale dealer in spirits distilled from the produce of the cocoanut or other description of palm, or of the sugarcane, to sell or dispose of such spirits at any other place than at the storehouse or storehouses mentioned in the license which shall have been granted to such dealer, and any wholesale dealer selling or disposing of or causing or permitting to be sold or disposed of on his account any such spirits, contrary to the provisions of this clause, shall be guilty of an offence, and be liable on conviction to a fine of fifty pounds.

Agent may place lock on store of wholesale dealer.
[§ *8, 13 of 1891*]

22 It shall be lawful for the government agent, if he shall see fit so to do, to place or cause to be placed one or more locks upon each of the doors of the storehouse or storehouses of any licensed *distiller, rectifier, compounder, or* wholesale dealer in spirits distilled from the produce of the

Digitized by Google

cocoanut or other description of palm, or of the sugarcane, and to intrust the keys thereof to any person that he may think fit; provided always that such *distiller*, *rectifier*, *compounder*, *or* wholesale dealer shall at all times during the day have free access to such storehouse, and that on his application the person intrusted with the keys thereof shall within a reasonable time attend with the keys for the purpose of opening the same; and if any such *distiller*, *rectifier*, *compounder*, *or* wholesale dealer or any other person shall remove or cause to be removed any lock so placed upon his storehouse, or shall open or enter into the same, or permit any person so to do, without application to or previous to the attendance of the person intrusted with the keys as aforesaid, he shall be guilty of an offence, and be liable on conviction to a fine of fifty pounds.

23 No tree, plant, or shrub shall be permitted to grow or remain within twenty feet of any storehouse of any licensed wholesale dealer, and any licensed wholesale dealer knowingly permitting any tree, plant, or shrub to grow or remain, contrary to the provisions of this clause, shall be guilty of an offence, and be liable on conviction to a fine of five pounds. **Storehouse to be kept clear of jungle.**

24 It shall and may be lawful for any person authorized in that behalf in writing under the hand of the government agent, at all times, as well by night as by day, to enter into any house, outhouse, or place whatsoever made use of by or on account of any licensed distiller, rectifier, or compounder of or wholesale dealer in spirits distilled from the produce of the cocoanut or other description of palm, or of the sugarcane, for the purpose of his trade or business, and to measure and take an account of all such spirits, and of every *still* and utensil of any kind kept therein; provided that such person shall, if required so to do, produce to the person in charge of such premises the authority which may have been granted to him as aforesaid; and if any party shall in any way molest, obstruct, or hinder such person in the execution of the powers vested in him as aforesaid, such party shall be guilty of an offence, and be liable on conviction to a fine not exceeding twenty pounds, or to imprisonment, with or without hard labour, not exceeding six months. **Search by authority of government agent.**

25 Repealed by No. 1 of 1889.

26 (1) *No person shall sell or dispose of by retail, that is to say, in less quantity at any one time than thirty-five gallons, any spirit distilled from the produce of the cocoanut or other description of palm, or of the sugarcane, without having first obtained a license as near as is material according to the form C in schedule IV. hereto for that purpose from the government agent of the province in which such sale by retail is intended to be carried on, or unless he be acting for and by the authority and for the benefit of, and in conformity with the license granted to, such licensed retail dealer.* ***As to retail of arrack and rum.*** *[§ 9, 13 of 1891]*

Digitized by Google

(2) *It shall be lawful for the government agent of the province in which a license has been issued under the preceding sub-section, if he shall see fit so to do, to require the licensee, by notice in writing, to give up the license which shall have been issued to him, and upon such notice being personally served on such licensee, or affixed to the tavern in respect of which the license was granted, such license shall be deemed and taken to be withdrawn, and shall be of no further force or effect.*

(3) *Every person who shall sell or dispose of, or cause or permit to be sold or disposed of on his account, by retail any such spirits without such license, or contrary to the tenor thereof, shall be guilty of an offence, and be liable on conviction to a fine not exceeding fifty rupees, and to rigorous or simple imprisonment not exceeding three months, or to either of such punishments at the discretion of the court before which such offender is convicted.*

Retailer to sell two quarts.

27 Every person licensed to sell spirits under the provisions of the preceding clause shall at all times during the day be and he is hereby required during the continuance of his license to sell spirits, not exceeding two quarts, immediately on application for the same, and any licensed retail dealer neglecting, refusing, or wilfully delaying to sell such quantity of such spirits shall be guilty of an offence, and be liable on conviction to a fine of one pound.

Certificate to purchaser.

28 Whenever any licensed retail dealer or person acting in his behalf shall sell spirits exceeding in quantity two quarts, he shall grant a certificate of such sale to the purchaser, which certificate shall be signed by such licensed retail dealer or person acting on his behalf, and shall specify the date thereof, the quantity purchased, the name of the purchaser, the period within which it is to be removed, and the places from and to which it is to be removed, and both which places must be within the district in which such person shall be licensed to sell the same, and which certificate such licensed retail dealer or person acting on his behalf is hereby required to give upon receipt of the value of the spirits so sold, and any licensed retail dealer or person acting on his behalf neglecting, refusing, or wilfully delaying to grant such certificate accordingly shall be guilty of an offence, and be liable on conviction to a fine of five pounds; provided always that in every instance in which spirits exceeding three gallons shall be sold by any licensed retail dealer, no certificate shall continue in force or shall be held to legalize the possession of any such spirits exceeding in quantity three gallons for a longer period than forty-eight hours, unless such purchaser shall have also obtained a special license from the government agent for such longer period as may be therein specified.

29 Repealed by No. 12 of 1891.

30 Repealed by No. 7 of 1873, itself repealed by No. 12 of 1891.

Digitized by Google

31 If any licensed wholesale or retail dealer in spirits or toddy shall be convicted of an offence against any of the provisions of this Ordinance, it shall be lawful for the government agent, if he shall see fit so to do, to call upon such wholesale or retail dealer in writing to give up the license which shall have been issued to him, and such license shall thereupon be deemed and taken to be withdrawn and shall be of no further force or effect.

Agent may withdraw license of wholesale or retail dealer.

32 The possession by any person of any spirit distilled from the produce of the cocoanut or other description of palm, or of the sugarcane, shall be unlawful, except under the following circumstances, that is to say:

Possession of arrack and rum.

Except such spirit shall be in the possession of any licensed distiller or wholesale or retail dealer, in conformity with the provisions of this Ordinance;

Or except such spirit shall be in the possession of any person legally empowered to remove the same;

Or except such spirit shall be possessed by the authority of the government agent of the province within which it shall be possessed;

Or except such spirit shall have been legally sold to the persons in whose possession it shall be found, provided, if the quantity be less than thirty-five gallons, it shall have been purchased from the licensed retail dealer of the district within which it shall be possessed; and provided further, that the possessor of any such spirit shall, when necessary, have taken out the certificate or certificates required by the twenty-eighth clause of this Ordinance;

And any person possessing any such spirit under any circumstances not specified in some one or more of the above-mentioned exceptions shall be guilty of an offence, and be liable on conviction to a fine of five pounds, and to a further fine of five shillings for every gallon of such spirits so illegally possessed, and all such spirits shall be forfeited.

33 *No spirit distilled from the produce of the cocoanut or other description of palm or of the sugarcane, in any quantity exceeding two quarts, shall be removed from any place within a district to any other place within the same district, and no such spirit in any quantity exceeding an imperial pint shall be removed from any place within a district to any place outside such district, without a permit accompanying the same as near as is material in the form D in schedule IV. hereto, which permit shall specify the date thereof, the names of the person removing such spirit and of the person on whose behalf it is removed, the quantity to be removed, the period within which it is to be removed, the places from and to which it is to be removed, and the mode in which it is to be removed. And such permits shall be granted by the government agent of the province or by any other person duly authorized in writing under the hand of the government agent. Provided that if the quantity of such spirit shall not*

As to removal of arrack.
[*§ 10, 13 of 1891*]

Digitized by Google

exceed thirty-five gallons, such permit may be issued by any licensed retail dealer for the removal of the same only within the limits of his district.

Authority to demand permit,

34 It shall be lawful for any person authorized in that behalf in writing under the hand of the government agent at all times, as well by night as by day, to stop any person removing what there may be reasonable ground to suppose to be spirit distilled from the produce of the cocoanut or other description of palm, or of the sugarcane, and to demand the production of the permit granted for the removal of the same; provided that such first-mentioned person shall produce to the person removing any such spirit the authority which shall have been granted to him as aforesaid.

and examine spirit.

35 It shall be lawful for any person authorized under the provisions of the preceding clause to satisfy himself that the removal of any spirit distilled from the produce of the cocoanut or other description of palm, or of the sugarcane, is in all respects in conformity with the permit granted for the same; and if such person shall find that the quantity of such spirits removed, or the means or time of removal, or the places to or from which it is removed, shall not correspond with the same particulars as appearing in the permit accompanying the same, or if no permit shall be produced for the removal thereof, it shall be lawful for such person to detain any such spirit and without delay to give the same, together with every cart, waggon, boat, vessel, animal, or other conveyance employed in such removal, into the charge of the government agent, to be dealt with according to law; and if any person removing any such spirit shall, after production of the authority to demand the permit for such removal, refuse to produce the same, or shall in any way molest, obstruct, or resist any person producing such authority in the execution of his duty under this Ordinance, he shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding five pounds, or to imprisonment with hard labour for any period not exceeding three months.

Officer refusing to grant permit.

36 If any party by the thirty-third clause of this Ordinance empowered to grant permits for the removal of spirit shall refuse, neglect, or wilfully delay to issue such permit without fee, gratuity, or reward, such party shall, over and above any damages which may be recovered against him for loss sustained by the party requiring the same, be guilty of an offence, and be liable on conviction to a fine of five pounds.

Penalty on illegal removal of arrack and rum.

37 All spirit distilled from the produce of the cocoanut or other description of palm, or of the sugarcane, which shall be removed without a permit, as required by the thirty-third clause of this Ordinance, accompanying the same or not in conformity with the terms of such permit, and every cart, waggon, boat, vessel, animal, or other conveyance employed in such removal, shall be forfeited; and the owner of such spirit and every person concerned in the removal thereof shall be guilty of an offence, and be liable on conviction to

Digitized by Google

a fine at the rate of thirty shillings per gallon, whether more or less, upon the quantity so removed; and every person employed or concerned in such illegal removal who shall not give up the true name and place of abode of the owner of such spirit, shall be guilty of an offence, and be liable on conviction to a fine of five pounds.

38 No person shall sell any toddy by retail, that is to say, in any less quantity at any one time than fifteen gallons, without having first obtained a license for that purpose, as near as is material of the form F hereto annexed, from the government agent of the province in which such sale by retail is intended to be carried on, or unless he be acting for and by the authority and for the benefit of and in conformity with the license granted to such retail dealer, which license shall be in force on and from the day on which the same shall be granted until the thirtieth day of June next thereafter, inclusive. **License to retail toddy.** [*See* § *3, 3 of 1894*]

39 It shall not be lawful for any person to draw or cause to be drawn any toddy from any cocoanut or other description of palm, either on his own account, being a distiller duly licensed under the provisions of this Ordinance, or for the purpose of selling the said toddy to any such distiller or to any licensed retail dealer in toddy, unless he shall first have obtained a permit for that purpose, as near as is material of the form G hereto annexed, from the government agent of the province, or from some person authorized in writing under his hand to grant such permit, or from the licensed retail dealer in toddy for the district within which such palm shall be situated, which permit shall be issued to such person on his application free of all charge, and shall be in force on and from the day on which the same shall be granted until the thirty-first day of December next thereafter, inclusive. **Permit to draw toddy for distillers, renters, and retailers;**

40 It shall not be lawful for any person to draw or cause to be drawn any toddy from any cocoanut or other description of palm for any other than the afore-mentioned purposes, unless he shall first have obtained a license for that purpose, as near as is material of the form H hereto annexed, from the government agent of the province or from the licensed retail dealer in toddy of the district within which such palm shall be situated, which license shall be in force on and from the day on which the same shall be granted until the thirty-first day of December next thereafter, inclusive; and such government agent or licensed retail dealer shall be entitled to demand and receive the sum of one pound for each cocoanut tree and for each palmirah tree, and of two pounds for each jaggery tree, for which such license shall be granted. **or for other purpose.**

41 It shall not be lawful for any person other than the licensed retail dealer in toddy within the district in which he shall be licensed to retail the same, or person authorized under the provisions of the thirty-ninth clause of this Ordinance, to sell any toddy whatsoever. **Sale of toddy.**

Digitized by Google

Possession of toddy.

42 It shall not be lawful for any person to possess toddy in any quantity exceeding one gallon, unless the same shall belong to or be for the use of the licensed retail dealer in toddy for the district in which the same shall be possessed, or shall belong to or be for the use of some duly licensed distiller, or shall belong to or be for the use of some person authorized under the thirty-ninth or fortieth clauses of this Ordinance to draw the same, and shall be possessed within the premises of the said retail dealer, distiller, or authorized person respectively.

Removal of toddy.

43 It shall not be lawful for any person to remove any toddy in any quantity exceeding one gallon.

Removal and possession with permit.

44 It shall be lawful for the government agent, or any person thereto authorized by him in writing under his hand, or the licensed retail dealer in toddy within the district in which he shall be licensed to retail the same, to grant a permit, as near as is material of the form I hereto annexed, for the removal and possession of any quantity of toddy, which permit shall specify the places from and to which the same is to be removed, or in which it shall be kept, and shall remain in force for such period as shall be therein stated; provided that no such permit shall remain in force after the thirty-first day of December next after the date thereof.

Officer refusing to grant permit.

45 If any party by the preceding clause of this Ordinance empowered to grant permits for the removal and possession of toddy shall, on application made to him, refuse, neglect, or wilfully delay to issue any such permit without fee, gratuity, or reward, such party shall, over and above any damages which may be recovered against him by the party applying for such permit, be guilty of an offence, and be liable on conviction to a fine of five pounds.

Penalty on illicit drawing, sale, possessing, or removal of toddy.
[*See* § *11, 13 of 1891*]

46 Any person drawing, selling, possessing, or removing, or causing to be drawn, sold, or removed, any toddy contrary to the provisions of this Ordinance, shall be guilty of an offence, and be liable on conviction to a fine not exceeding five pounds for each offence, and all toddy so illegally drawn, sold, possessed, or removed shall be forfeited.

Proviso as to sweet toddy.
[§ *12, 13 of 1891*]

47 *The restrictions hereinbefore contained in respect to selling, possessing, and removing toddy shall not be deemed to apply to sweet toddy, and no person shall be convicted of drawing toddy without having obtained a permit or license unless it be proved to the satisfaction of the court before which he is tried that in drawing such toddy he had omitted to take necessary precautions to prevent the same from fermenting.*

Extension of license to representative of deceased party.
[*See* § *14, 13 of 1891*]

48 If any spirit distilled from the produce of the cocoanut or other description of palm, or of the sugarcane, shall be found in the estate of any deceased person, who shall during his lifetime have been legally entitled to possess the same, it shall be lawful for the legal representative or representatives

Digitized by Google

of such person, at any time within one week after the death of such person, to make application in writing to the government agent to be placed in the same position with respect to the possession of such spirit as the deceased person; and it shall be lawful for the government agent, and he is hereby required, within ten days after the receipt of such application, unless he shall have reason to doubt that the party or parties making the same is or are such *bonâ fide* legal representative or representatives, by a written authority under his hand to grant such application; and the party or parties to whom such written authority shall be granted shall be entitled to possess spirit in such and the same manner, and for the same period, and under the same restrictions, as the deceased person would be entitled to possess the same if he were alive: Provided always that every person who shall in any such written application to the government agent falsely represent himself to be the legal representative of any such deceased person as aforesaid shall be guilty of an offence, and be liable on conviction to a fine of twenty pounds, or to imprisonment with or without hard labour for any period not exceeding twelve months.

Person falsely applying as representative.

Where no representative of deceased.

49 If any spirit distilled from the produce of the cocoanut or other description of palm, or of the sugarcane, shall be found in the estate of any deceased person who shall during his lifetime have been legally entitled to possess the same, and if no such application as in the preceding clause mentioned shall have been made to the government agent within the period therein prescribed, or if the government agent shall not be satisfied that the applicant or applicants is or are the *bonâ fide* legal representative or representatives of the deceased party, or if any such spirit shall be found in the possession of any licensed wholesale or retail dealer at the time when the government agent shall, by virtue of the powers in him vested by the thirty-first clause of this Ordinance, call upon such wholesale or retail dealer to give up the license which shall have been issued to him, it shall be lawful for the government agent to sell all such spirits by auction, at such time and place and in such manner as to him shall appear most expedient; and the government agent shall, after deducting the costs of such sale, and any other costs that may have been necessarily incurred in respect thereof, pay the balance of the amount realized by the same, if the spirit shall have been found in the estate of any deceased person, into the Loan Board, to be placed to the credit of the party or parties legally entitled to the same, and if such spirit shall have been found in the possession of any wholesale or retail dealer whose license shall have been withdrawn, then to such wholesale or retail dealer respectively: Provided always that if the quantity of such spirit shall be less than thirty-five gallons in any one case, it shall be lawful for the government agent to direct the same to be delivered over to the licensed retail dealer of the district in which the same shall be, and to pay into the Loan Board, to be placed to the credit of the party or parties legally entitled

Or license withdrawn.

Digitized by Google

to the same, or to pay to the wholesale or retail dealer whose license shall have been withdrawn, as the case may be, the value of such spirit, at a rate of twenty per cent. under the price at which such retail dealer shall be licensed to retail the same.

Punishment for forgery of permit or certificate.

50 Any person who shall forge, alter, or counterfeit, or procure or incite or assist any other person to forge, alter, or counterfeit any license or permit required to be used or issued under this Ordinance, or shall knowingly and wilfully utter any such forged, altered, or counterfeit license or permit, shall be guilty of an offence, and be liable on conviction to a fine not exceeding twenty pounds, or to imprisonment, with or without hard labour, for any period not exceeding twelve months.

Seizures of forfeitures.

51 All spirits, toddy, stills, and other things which by this Ordinance are declared to be forfeited shall and may be seized by any officer of police or any peace officer whatsoever, and when seized shall, as soon as conveniently may be, be delivered into the charge of the government agent, to be by him safely kept until final judgment shall be given for the condemnation or restoration of the same.

Seizure to be taken to be condemned, unless claimed and security given.

52 All spirits, toddy, stills, and other things which shall be seized as forfeited under this Ordinance shall be deemed and taken to have been adjudged to be duly forfeited and condemned by a competent court of law, and may be dealt with in the manner directed by this Ordinance, in respect of spirits, stills, and other things which shall have been actually so adjudged and condemned, unless the person from whom any such spirits, toddy, still, or other thing shall have been seized, or the owner of them, or some person authorized by him, shall within one calendar month from the day of seizing of the same give sufficient notice in writing to the government agent that he claims such spirits, toddy, still, or thing, or intends to claim them, and unless he shall also within ten days after the delivery of such notice give security to the satisfaction of the government agent to answer and pay the costs occasioned by such claim: Provided always that no such notice shall be taken to be sufficient unless the same shall set forth the true and real name or names of the owner or owners of every thing so seized, and shall describe the place of residence, and the business or profession of every such owner, nor unless a declaration of the ownership of the things seized, signed by some such owner or by some person in the actual management or superintendence of the trade or business of the owner or owners, shall accompany such notice.

Proviso.

Declaration of ownership.

53 If such declaration shall be signed by the owner or part owner of anything so seized, it shall set forth that such thing was the *bonâ fide* property at the time of the seizure of the person or persons declared in such notice as aforesaid to be the real owner or owners; and if such declaration shall be signed by any person in the management or superintendence of the trade or business of the owner or owners, it shall set

Digitized by Google

forth that to the best of his knowledge and belief the thing so seized was at the time of seizure the *bonâ fide* property of the owner or owners named in the said notice as aforesaid; and if any declaration so made shall be wilfully false the person making it shall be guilty of an offence, and be liable on conviction to a fine of twenty pounds.

Modes of proceeding for the condemnation of forfeitures.

54 Whenever any person shall be convicted of doing or permitting to be done or of leaving undone anything the doing of which or the permitting which to be done, or the leaving which undone, is declared to be an offence by this Ordinance, and the forfeiture of any spirits, toddy, still, or other thing is also declared to be the consequence of such thing being done or permitted to be done, or being left undone, it shall be lawful for any court before whom such person shall have been convicted, at the same time that it shall pass sentence upon such person, to declare and adjudge such spirits, toddy, still, or other thing to be forfeited, and to condemn the same, whatever may be the amount or value thereof: Provided always that it shall be lawful for the *Attorney-General* if he shall think fit, to institute separate proceedings of a civil nature for the recovery of any such forfeiture; and the acquittal of any person charged with any offence in this clause mentioned shall not be taken to be any sufficient reason why any such proceedings should not be instituted, or being instituted should be abated, or why such forfeiture should not be recovered. [§ *3, 1 of 1883*]

Disposal of condemned forfeiture.

55 Whenever any spirits, toddy, still, or other thing shall have been adjudged to be forfeited and condemned by any competent court of law, the government agent shall, within one month after such condemnation, cause the same to be sold by public auction to the best bidder: Provided always that if any appeal shall be entered against any judgment of any court in respect of any suit or information on behalf of the Crown or of the defendant, no such sale shall take place until a final decision shall be given in the matter, and all such things shall until such time be kept in the custody of the government agent.

When things seized, stolen, or injured.

56 If any spirits, toddy, still, or other thing seized under the provisions of this Ordinance, and taken into the custody of the government agent, shall while being in such custody be destroyed by fire or stolen therefrom, or if any cask or vessel containing spirits shall burst, or if any spirits shall waste, the owner thereof shall not have any claim on the Crown or upon the government agent for compensation thereof; provided always that if any person employed by the government agent about the custody of such spirits, toddy, still, or thing shall embezzle the same or any part thereof, or if any such spirits, toddy, still, or thing shall be stolen or destroyed or in any way injured through the negligence or misconduct of any person so employed, such person shall, in addition to any liability to be prosecuted criminally, be liable to make good to the party to whom such spirits,

Digitized by Google

toddy, still, or other thing shall be eventually adjudged, whether such party be the Crown or the claimant, double the value of the thing that shall be so embezzled, stolen, destroyed, or injured.

Restoration of seizures.

57 It shall be lawful for the government agent, with the sanction of the Governor, to order any spirits, toddy, still, or other thing seized under the provisions of this Ordinance to be restored at any time before the sale thereof, in such manner and on such terms and conditions as the Governor shall think fit to prescribe, and if the owner or any person duly authorized in his behalf shall accept the terms and conditions so prescribed, he shall not have or maintain any action for recompense or damage on account of such seizure, and no further proceedings shall be had for the condemnation of such seizure.

Where seizures cannot be effected.

58 Whenever any spirits, toddy, still, or other thing shall have been forfeited under the provisions of this Ordinance, but cannot be seized and secured on account of their having been made away with, or for any other reason, the owner or owners of such spirits, toddy, still, or thing shall forfeit double the value of any spirits, toddy, still, or thing which shall be proved to have been so forfeited.

Powers of peace officers, &c.

59 Whenever any officer of police or peace officer whatsoever shall have good reason to believe that any spirits, toddy, still, or other thing have become forfeited and liable to seizure under the provisions of this Ordinance, and are to be found in any house, outhouse, or other premises or place whatsoever, it shall be lawful for such officer, and for any person whom he shall call to his aid, to enter such house, outhouse, premises, or place, either by day or night, and to search for such spirits, still, toddy, or thing, and to seize the same; and if admittance into any such house, outhouse, premises, or place shall not be immediately given to any such officer or person called to his aid as aforesaid, upon being audibly demanded by such officer, it shall be lawful for such officer or person so called to his aid to break open or otherwise forcibly enter any such house, premises, or place.

60 Repealed by No. 3 of 1883, itself repealed by No. 15 of 1898.

Vexatious conduct of officers.

61 Every officer of police and peace officer whatsoever, and every person acting in the aid of any such officer, and every other person who shall, under pretence of performing any duty or exercising any authority imposed upon or vested in him by this Ordinance, use unnecessary violence, or wantonly do any injury, or give uncalled-for and vexatious annoyance, shall be guilty of an offence, and be liable on conviction to a fine not exceeding five pounds, or to imprisonment, with or without hard labour, for any period not exceeding three months.

Probable cause of seizure.

62 In case any information or suit shall be brought to trial on account of any seizure made under this Ordinance, and

Digitized by Google

the judge before whom the cause shall have been tried shall certify on the record that there was probable cause of seizure, the claimant shall not be entitled to any costs of suit, or to any damages in respect of such seizure, nor shall the person who made such seizure be liable to any action, information, or other suit or prosecution on account of such seizure.

63 *It shall be lawful for the court imposing a fine under the provisions of the Ordinance to award to the informer any share not exceeding a moiety of so much of the fine as is actually recovered and realized.*

As to awarding informer a share. [§ *13, 13 of 1891*]

64 No person shall be deemed incompetent to give evidence at the trial of any party for any offence created by this Ordinance, or at the trial of any suit or information instituted for the recovery of or in relation to any forfeiture or seizure under this Ordinance, by reason of any reward or benefit to which such person may be entitled upon the conviction of such offender, or upon the adjudication of such forfeiture, anything in the Ordinance No. 6 of 1834,* entitled "Ordinance declaring English rules of evidence to be in force in this island, unless in cases otherwise expressly provided for by law, and prescribing the course by which evidence is to be obtained in certain cases," to the contrary notwithstanding.

Informer competent witness.

65 Wherever in any clause of this Ordinance any person or thing is declared liable to any punishment, penalty, or forfeiture, but certain exceptions are therein expressed, excepting such persons or things under certain circumstances from such liabilities, it shall not be necessary to aver or show in any information or other proceeding for the prosecution of such offence, or for the recovery of such penalty or forfeiture, that the defendant or the subject of any such proceeding does not come within any such exception, but the proof thereof shall be upon the defendant.

Defendant to prove whether he comes under exceptions.

66 In all cases wherein any act is authorized or directed by this Ordinance to be done by any government agent of any province, the same shall and may equally be done by any of his assistants.

Powers of assistant agents.

SCHEDULE AS AMENDED BY No. 13 OF 1891 AND No. 3 OF 1894.

Form F.—License to retail Toddy.

This is to certify that I, ———, Government Agent for the ——— Province, do hereby license ——— to sell toddy by retail, from the ——— day of ———, One thousand Eight hundred and ———, to the Thirtieth day of June, One thousand Eight hundred and ———, inclusive, at the tavern No. ———, situated at ———, and at no other place, on condition that the said ——— shall sell toddy at the price of ——— per imperial gallon, and in proportion for any lesser quantity, and at no other price whatsoever.

Signed this ——— day of ———. ———

Government Agent.

* Repealed by No. 14 of 1895.

Digitized by Google

G.—License to draw Toddy for Distillation or Sale to Distiller.

This is to certify that ——— is hereby licensed to draw toddy from ——— trees, situated in the garden ———, in the village of ———, for the purpose of ———.

Signed this ——— day of ———.

H.—License to draw Toddy for Private Use.

This is to certify that ——— is hereby licensed to draw toddy from ——— trees, situated in the garden ———, in the village of ———. But such toddy shall not be used for the distillation of arrack, nor be sold to any person whatsoever.

Signed this ——— day of ———.

I.—License for removal of Toddy.

This is to certify that ——— has my permission to remove ——— gallons of toddy from ——— to ———, and to keep the same at ———.

Signed this ——— day of ———.

5th August, 1844.

No. 13 of 1891.

An Ordinance relating to Arrack, Rum, and Toddy.

Preamble.

WHEREAS it is expedient to amend the law relating to arrack, rum, and toddy : Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows :

To be read as one with Ordinance No. 10 of 1844. Commencement.

1 This Ordinance shall be read as one with the Ordinance No. 10 of 1844, hereinafter referred to as "the principal Ordinance," and shall come into operation from and after such date as the Governor shall appoint by Proclamation in the *Government Gazette*.*

Repealing clause.

2 There shall be repealed as from the commencement of this Ordinance the Ordinances specified in schedule I. hereto. Provided that the repeal shall not affect—

(*a*) The past operation of any enactment hereby repealed, nor anything duly done or suffered under any enactment hereby repealed ; nor

(*b*) Any right, liability, or obligation acquired, accrued, or incurred under any enactment hereby repealed ; nor

(*c*) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed ; nor

(*d*) Any legal proceedings or remedy in respect of any such right, liability, obligation, penalty, forfeiture, or punishment as aforesaid.

When any unrepealed Ordinance incorporates or refers to any provisions of any Ordinance hereby repealed, such unrepealed Ordinance shall be deemed to incorporate or refer to the corresponding provisions of this Ordinance.

---

* Proclaimed the 1st day of July, 1892.

Digitized by Google

3 In this Ordinance "district" means any one of the subdivisions into which a government agent shall from time to time divide a province for the purpose of selling or assigning to any person the monopoly of retailing arrack and toddy, or either of them, within such subdivision. Interpretation.

"Licensed retail dealer" means the person who may have purchased the monopoly of retailing arrack and toddy, or either of them, in any district.

4 (1) If a licensed distiller, rectifier, or compounder shall be convicted of any offence mentioned in schedule II. hereto, or if any person be convicted of having committed any offence mentioned in schedule III. hereto in any building or premises used by any such distiller, rectifier, or compounder for distilling, rectifying, compounding, or storing spirits, it shall be lawful for the government agent, if he shall see fit so to do, to require the licensee by notice in writing to give up the license which shall have been issued to him, and upon such notice being personally served on such licensee or affixed to any part of the premises to which such license applies, such license shall be deemed and taken to be withdrawn, and shall be of no further force and effect. Government agent may withdraw distiller's license.

(2) It shall be open to any person whose license shall be withdrawn by a government agent to apply to the Governor, who may confirm or reverse such withdrawal as to him, with the advice of the Executive Council, shall seem fit.

5 For section 11 of the principal Ordinance the following section shall be substituted, namely: Section 11, as to license for distillation of spirits.

(1) Every license for the distillation of spirits which shall be granted under this Ordinance shall be as near as is material in the form A in schedule IV. hereto, and shall be in force for the period specified therein, and shall bear a stamp, to be furnished by the licensee to the government agent before the issue of any such license, of one hundred rupees for each year or portion of a year during which such license is to run.

(2) Every such license shall ordinarily be issued for the period not exceeding twelve months specified therein, but it shall be in the discretion of the government agent to issue a license under this section for a period to be specified in the license exceeding twelve months but not exceeding five years.

6 For section 14 of the principal Ordinance the following section shall be substituted, namely: Section 14. Distiller not to sell less than thirty-five gallons of spirits.

(1) Every licensed distiller, rectifier, or compounder, and every person in the management or superintendence of the trade or business of any licensed distiller, rectifier, or compounder, who shall sell or dispose of, or knowingly cause or permit to be sold or disposed of on his account, any spirits in a less quantity than thirty-five gallons at any one time, shall be guilty of an offence, and shall upon a first conviction be liable to a fine not exceeding one hundred rupees, and upon every subsequent conviction to a fine not exceeding two hundred rupees, or to simple or rigorous imprisonment not exceeding six months, or to both.

(2) If the offender is a licensed distiller, rectifier, or compounder, the court before which he is convicted a second time shall, in addition to awarding any penalty or penalties authorized by this section, declare and adjudge any still, vessel, or utensil, together with any spirit or toddy found at the date of the offence on the premises in which he carried on his business, to be forfeited. All forfeitures may be sold or otherwise disposed of in such manner as the court may direct.

Digitized by Google

Section 20, as to license to deal wholesale in spirits.

7 For section 20 of the principal Ordinance the following section shall be substituted, namely:

(1) Every person who desires to obtain a license to deal by wholesale in spirits distilled from the produce of the cocoanut or other description of palm, or sugarcane, shall make an application in writing to that effect to the government agent of the province within which such wholesale dealing is to be carried on, containing a true and full description of the name and residence of the person making the same, and of the place in which his storehouse or storehouses shall be situate.

(2) Such government agent shall within ten days after the receipt of such application, and of the stamp to be furnished by the licensee as hereinafter mentioned, issue to the applicant a license to deal in such spirits by wholesale as near as is material according to the form B in schedule IV. hereto. Provided that if any government agent shall have any just and reasonable grounds for so doing, it shall be lawful for him to refuse to issue such license. Every such refusal, together with the government agent's reasons therefor, shall be reported forthwith to the Governor, by whom such refusal shall and may be confirmed or reversed.

(3) Every license issued under the provisions of this section shall be in force for the period specified therein, and shall bear a stamp, to be furnished by the licensee to the government agent before the issue of any such license, of one hundred rupees for each year or portion of a year during which such license is to run, and shall entitle the licensee to have in his possession any quantity of such spirits lawfully purchased or distilled either for exportation or for sale by wholesale.

(4) Every such license shall ordinarily be issued for the period not exceeding twelve months specified therein, but it shall be in the discretion of the government agent to issue a license under this section for a period to be specified in the license exceeding twelve months but not exceeding five years.

Section 22 amended.

8 Section 22 of the principal Ordinance shall be taken and read as though the words "distiller, rectifier, compounder, or" were inserted before the words "wholesale dealer," wherever the latter words occur in the said section.

Section 26, as to retail of arrack and rum.

9 For section 26 of the principal Ordinance the following shall be substituted, namely:

(1) No person shall sell or dispose of by retail, that is to say, in less quantity at any one time than thirty-five gallons, any spirits distilled from the produce of the cocoanut or other description of palm, or of the sugarcane, without having first obtained a license as near as is material according to the form C in schedule IV. hereto for that purpose from the government agent of the province in which such sale by retail is intended to be carried on, or unless he be acting for and by the authority and for the benefit of, and in conformity with the license granted to, such licensed retail dealer.

(2) It shall be lawful for the government agent of the province in which a license has been issued under the preceding sub-section, if he shall see fit so to do, to require the licensee, by notice in writing, to give up the license which shall have been issued to him, and upon such notice being personally served on such licensee or affixed to the tavern in respect of which the license was granted, such license shall be deemed and taken to be withdrawn, and shall be of no further force or effect.

(3) Every person who shall sell or dispose of, or cause or permit to be sold or disposed of, on his account, by retail any such spirits without such license, or contrary to the tenor thereof, shall be guilty of an offence, and be liable on conviction to a fine not exceeding fifty rupees, and to rigorous or simple imprisonment not exceeding

Digitized by Google

three months, or to either of such punishments at the discretion of the court before which such offender is convicted.

10 For section 33 of the principal Ordinance the following section shall be substituted, namely : Section 33, as to removal of arrack.

No spirit distilled from the produce of the cocoanut or other description of palm, or of the sugarcane, in any quantity exceeding two quarts, shall be removed from any place within a district to any other place within the same district, and no such spirit in any quantity exceeding an imperial pint shall be removed from any place within a district to any place outside such district without a permit accompanying the same as near as is material in the form D in schedule IV. hereto, which permit shall specify the date thereof, the names of the person removing such spirit and of the person on whose behalf it is removed, the quantity to be removed, the period within which it is to be removed, the places from and to which it is to be removed, and the mode in which it is to be removed. And such permits shall be granted by the government agent of the province or by any other person duly authorized in writing under the hand of the government agent. Provided that if the quantity of such spirit shall not exceed thirty-five gallons, such permit may be issued by any licensed retail dealer for the removal of the same only within the limits of his district.

11 In case of default of payment of any fine imposed under section 46 of the principal Ordinance, the court inflicting the fine may at its discretion sentence the offender to simple or rigorous imprisonment for any period not exceeding three months, anything in " The Criminal Procedure Code, 1883," or Ordinance No. 22 of 1890 to the contrary notwithstanding.* Section 46 amended.

12 For section 47 of the principal Ordinance the following shall be substituted, namely : Section 47, proviso as to sweet toddy.

The restrictions hereinbefore contained in respect to selling, possessing, and removing toddy shall not be deemed to apply to sweet toddy, and no person shall be convicted of drawing toddy without having obtained a permit or license unless it be proved to the satisfaction of the court before which he is tried that in drawing such toddy he had omitted to take necessary precautions to prevent the same from fermenting.

13 For section 63 of the principal Ordinance the following section shall be substituted, namely : Section 63, as to awarding informer a share

It shall be lawful for the court imposing a fine under the provisions of this Ordinance to award to the informer any share not exceeding a moiety of so much of the fine as is actually recovered and realized.

14 It shall be in the discretion of the government agent to authorize in writing any legal representative or representatives of any deceased distiller to distil spirits in such and the same manner, and for the same period and under the same restrictions, as such deceased distiller would be entitled to distil if he were alive ; and the provisions of section 48 of the principal Ordinance with regard to the legal representative or representatives therein referred to shall, *mutatis mutandis*, apply to the legal representative or representatives of a deceased licensed distiller. Extension of license to representative of deceased distiller.

15 (1) From and after the passing of this Ordinance it shall not be lawful for any person to export from this island any spirits distilled therein from the produce of the cocoanut or other description of Person exporting arrack, &c., should hold a wholesale dealer's license.

* Both repealed by No. 15 of 1898.

Digitized by Google

palm, or of the sugarcane, in any quantity exceeding thirty-five gallons, without he shall have first obtained from the government agent a permit for that purpose as near as is material in the form E in schedule IV. hereto. Every such permit shall be issued free.

(2) Whoever acts contrary to the provisions of this section shall be guilty of an offence, and shall be liable to a fine not exceeding five hundred rupees.

Licensed distillers and wholesale dealers to make weekly returns,

16 Every person licensed as a distiller, and every person licensed as a wholesale dealer, shall, on or before Wednesday of each week, make true and correct returns to the government agent of the province for and in respect of the previous week of the particulars set forth in the forms contained in the schedule V. hereto: the return to be made by every licensed distiller being in the form A in schedule V. hereto and by every licensed wholesale dealer in the form B in schedule V. hereto.

and to keep correct copies of such returns.

17 Every licensed distiller and wholesale dealer shall keep true and correct copies of the returns respectively made by them, and such copies shall at all reasonable times be open to the inspection of the government agent or of any person authorized by him in writing to inspect the same.

Offences: Penalty.

18 Any licensed distiller or wholesale dealer who shall refuse or neglect to make any return by this Ordinance required to be made in the form and within the time herein specified, or who shall refuse or neglect to keep a true and correct copy of such return, or who shall refuse to allow inspection of such copy to the government agent, or other person authorized as aforesaid, shall for every such refusal or act of neglect be guilty of an offence, and shall be liable on conviction to a fine not exceeding fifty rupees; and the production of a certificate under the hand of the government agent to the effect that no return has been received by him from the person charged shall, in all judicial proceedings, be *primâ facie* evidence of such person having refused or neglected to make such return.

Evidence.

Proof of negative to be on the defendant.

19 In any prosecution for any offence under this or the principal Ordinance, if the information, plaint, or charge in any such case shall negative any exemption, proviso, or condition in this or the principal Ordinance, it shall not be necessary for the prosecutor or complainant in that behalf to give any evidence of such negative, but the defendant or accused may prove the affirmative thereof in his defence, if he would have advantage of the same.

Accused may give evidence.

20 A person charged with any offence under this or the principal Ordinance may, if he thinks fit, tender himself to be examined on his own behalf, and thereupon may give evidence in the same manner and with the like effect and consequences as any other witness.

Schedule I.

(1) The Ordinance No. 4 of 1880, intituled "An Ordinance to repeal the Ordinance No. 8 of 1869, intituled 'An Ordinance to discourage the Illicit Sale of Wine, Arrack, Rum, or Spirits, and to make other provisions in lieu thereof.'"

(2) The Ordinance No. 5 of 1881, intituled "An Ordinance to amend the Law relative to the Distillation and Sale of Arrack, Rum, and Toddy within these Settlements."

(3) The Ordinance No. 19 of 1886, intituled "An Ordinance to amend the Ordinance No. 10 of 1844, relating to the Distillation and Sale of Arrack, Rum, and Toddy."

(4) The Ordinance No. 19 of 1887, intituled "An Ordinance to amend the Ordinance No. 10 of 1844 (Arrack, Rum, and Toddy)."

Digitized by Google

SCHEDULE II.

Offences committed by a Licensed Distiller, Rectifier, or Compounder.

(*a*) Selling any spirit in a less quantity than 35 gallons (see section 14 of the principal Ordinance, section 6 of this Ordinance), when the offence is committed at the building or premises used by such distiller, rectifier, or compounder.

(*b*) Making a false declaration (see section 5 of the principal Ordinance).

(*c*) Erecting, placing, or using any still, vessel, or utensil adapted for the purpose of distilling, rectifying, or compounding spirits upon any premises other than those mentioned in the license granted to such distiller, rectifier, or compounder (see section 13 of the principal Ordinance).

(*d*) Removing or causing to be removed any spirits without the permit required by section 33 of the principal Ordinance (see section 10 of this Ordinance), when the offence is committed by the removal of such spirits from the building or premises used by such distiller, rectifier, or compounder.

(*e*) Refusing or neglecting to make the returns required by section 16 of this Ordinance.

(*f*) Refusing or neglecting to keep true and correct copies of such returns, or refusing to allow inspection of such copies, required by section 17 of this Ordinance.

(*g*) Removing or possessing toddy without a license (see section 44 of the principal Ordinance).

SCHEDULE III.

Offences committed by any person within the building or premises used by any Licensed Distiller, Rectifier, or Compounder, for the purpose of distilling, rectifying, compounding, or storing Spirits.

(*a*) Selling any spirits in a less quantity than 35 gallons (see section 14 of the principal Ordinance, section 6 of this Ordinance).

(*b*) Removing or causing to be removed any spirits without the permit required by section 33 of the principal Ordinance (see section 10 of this Ordinance), when the offence is committed by the removal of such spirits from such building or premises.

SCHEDULE IV.

A.—License to distil Spirits.

This is to certify that I, ——— Government Agent of the ——— Province, do hereby license the distillation of ———, by the party (*or* parties), with the still, and at the place hereunder mentioned, from the ——— day of ———, 18—, to the ——— day of ———, 18—.

Name of Proprietor.	Name of Manager.	Size of Still.	Where situated.

Signed this ——— day of ———, 18—.

———
Government Agent

Arrack, Rum, and Toddy.

B.—License to deal in Arrack and Rum by Wholesale.

This is to certify that I, ———, Government Agent of the ——— Province, do hereby license ——— to deal in spirits by wholesale in conformity with the provisions of the Ordinance No. 10 of 1844, at his storehouse situated at ———, from the ——— day of ———, 18—, to the ——— day of ———, 18—, inclusive.

Signed this ——— day of ———, 18—.

———

Government Agent.

C.—License to retail Arrack and Rum.

This is to certify that I, ———, Government Agent of the ——— Province, do hereby license ——— to sell arrack and rum by retail from the ——— day of ———, One thousand Eight hundred and ———, to the ——— day of ———, One thousand Eight hundred and ———, inclusive, at the tavern No. ———, situated at ———, and at no other place, on condition that the said ——— shall sell arrack and rum at the price of ——— per imperial gallon, and in proportion for any less quantity, and at no other price whatsoever.

Signed this ——— day of ———, 18—.

———

Government Agent.

In conformity with the foregoing license in my favour I, ———, licensed retail dealer, hereby authorize ——— to sell by retail, for me and for my benefit, at the place aforesaid, until the ——— day of ———, or until the aforesaid license in my favour shall terminate or be withdrawn, whichever may first occur.

D.—Permit for Removal.

This is to certify that ——— has my permission to remove on behalf of ———, ——— of ———, the property of ———, from ——— to ———, within ——— days from the date hereof, in ——— casks loaded in ———.

Signed this ——— day of ———, 18—.

Note.—If the permit is issued only for removal from any place within a district to any other place within the same district, add the following words to the permit: "without transgressing the limits of the district of ———."

E.—Permit to export Arrack or Rum.

This is to certify that ——— has my permission to export from the Island ——— gallons, in ——— casks, the property of ———, within ——— weeks from the date hereof.

Signed this ——— day of ———, 18—.

Digitized by Google

SCHEDULE V.

A.—Arrack Distiller's Return, showing the Quantity of Arrack distilled and sold during the Week ended Saturday, ———, 18—.

Year.	No. of License.	Name of Distiller.	Place of Distillery.	Capacity of the Still (in Gallons).	Quantity remaining in Store as per last Return.	Quantity distilled during the Week.	Total.	Quantity sold during the Week.	Quantity remaining in Store on Saturday, the —, 18—.

B.—Wholesale Dealer's Return for the Week ended Saturday, ———, 18—.

——— Korale.

Year.	No. of Wholesale Dealer's License.	Name of Wholesale Dealer.	Situation of Store.	Quantity of Arrack in Store per last Return.	Quantity purchased and stored during the Week.	Total.	Quantity sold or issued during the Week.	Remaining in Store on Saturday, the ———, 18—.

13th December, 1891.

No. 9 of 1892.

An Ordinance for imposing a Duty on Tavern Licenses within Municipalities.

WHEREAS it is expedient to amend the Ordinances Nos. 10 of 1844 and 13 of 1891, and to impose a duty on all licenses issued in respect of arrack taverns within municipalities: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows: Preamble.

Stamp duty payable on tavern licenses within municipalities.

1 (1) Whenever in pursuance of the provisions of section 26 of the said Ordinance No. 10 of 1844, as re-enacted by section 9 of the said Ordinance No. 13 of 1891, the government agent of a province issues a license to sell by retail arrack and rum at any tavern situated within the limits of a municipality, such license shall be subject to a stamp duty.

(2) The Governor in Executive Council shall from time to time, by notification in the *Government Gazette*, fix the amount of such duty, which may vary in different municipalities, but which shall in no case exceed five hundred rupees, and may, with the like advice, amend or alter any such notification.

Digitized by Google

To be read as one with Ordinances Nos. 10 of 1844 and 13 of 1891. Commencement.

2 This Ordinance shall be read as one with the Ordinances Nos. 10 of 1844 and 13 of 1891, and shall commence and take effect on the First day of July, One thousand Eight hundred and Ninety-three.

11th October, 1892.

No. 20 of 1844.

An Ordinance to provide for the Total Abolition of Slavery in Ceylon.

Preamble.

WHEREAS the proprietors of slaves in this colony have almost universally failed to comply with the several enactments in force therein relative to the registration of slaves, and their slaves have in consequence become free; and it has therefore become practicable, without hardship to any one, to provide for the total abolition of slavery in this colony:

Slavery no longer to exist in this colony.

1 Slavery shall no longer exist in this colony, and all persons being slaves shall become free, and entitled in every way to all the rights and privileges of free persons, any other Law or Ordinance to the contrary now in force notwithstanding.

All Laws and Ordinances tolerating slavery repealed.

2 And it is further enacted and declared that the Proclamation of the 15th January, 1799; Regulation No. 9 of 1818, entitled "A Regulation for securing to certain children emancipated by the proprietors of their mothers the full benefit of such proprietors' intention, and for establishing an efficient registry of all slaves, and abolishing the joint tenure of property in the same"; Regulation No. 10 of 1818, entitled "A Regulation for facilitating the division of Covia, Nallua, and Palla slaves in the districts of Jaffnapatam and Trincomalee, among the present owners of such slaves"; Regulation No. 8 of 1821, entitled "For the gradual emancipation of all female slave children of the Covia, Nallua, and Palla castes by the purchase of their master's interest in such female slave child at the period of her birth"; Regulation No. 14 of 1823, entitled "A Regulation for further extending the term in which the registry of Covia, Nallua, and Palla slaves, respecting whom claims are still pending for decision, may take place, till the 31st May, 1824; and for declaring the decisions of the Commissioners acting under the 10th Regulation of 1818 not in any way to be a bar to the claims of persons registered as slaves to be nevertheless considered free persons"; Ordinance No. 3 of 1837, entitled "For making provision for the registration of slaves in those parts of the island in which the same is not already provided for by law"; Ordinance No. 7 of 1842, entitled "For making further provision for the registration of slaves in those parts of the island formerly termed the Maritime provinces": shall be and the same are hereby repealed, except so much of the said Proclamations, Regulations, or Ordinances, or any of them, as provides for the permanent or temporary care or maintenance of persons now or formerly slaves.

20th December, 1844.

Digitized by Google

No. 21 of 1844.

An Ordinance to make better provision for the disposal of Landed Property.

(*See No. 7 of 1871.*)

WHEREAS it is expedient that some uniform provision should be made with respect to testamentary dispositions of property: And whereas the undivided possession of landed property is productive of very injurious consequences to the inhabitants of this colony, and it is expedient to provide a remedy for the same in certain cases : **Preamble.**

1 It shall be lawful for every person competent to make a will to devise, bequeath, and dispose of by will all the property within this colony which at the time of his death shall belong to him, or to which he shall be then entitled, of whatsoever nature or description the same may be, movable or immovable, and all and every estate, right, share, or interest in any property, and which if not so devised, bequeathed, or disposed of would devolve upon his heirs-at-law, executor, or administrator, to such person or persons not legally incapacitated from taking the same, as he shall see fit; and no will made either within or beyond the limits of this colony subsequently to the time when this Ordinance shall commence and take effect shall be or be liable to be set aside as invalid or inofficious, either wholly or in part, by reason that any person who by any law, usage, or custom now or at any time heretofore in force within this colony, would be entitled to a share or portion of the property of the testator, has been excluded from such share or portion, or wholly disinherited by or omitted in such will; but every testator shall have full power to make such testamentary disposition as he shall feel disposed, and in the exercise of such right to exclude from the legitimate or other portion any child, parent, relative, or descendant, or to disinherit or omit to mention any such person, without assigning any reason for such exclusion, disinheritance, or omission, any law, usage, or custom now or heretofore in force in this colony to the contrary notwithstanding: Provided that nothing herein contained shall extend or be construed to extend to authorize or entitle any testator to dispose by will of any property or estate of his wife, or to exclude or deprive her of any life or other interest (belonging to her in her own right) in any property, and to which property, estate, or interest she would have been entitled if this Ordinance had not been passed.

Parties may dispose of their property by will as they choose.

Proviso.

2 No will made by any male under the age of twenty-one years, or by any female under the age of eighteen years, shall be valid, unless such person shall have obtained letters of Venia Ætatis, or unless such person shall have been lawfully married. **At what age wills may be made.**

Digitized by Google

Governor may grant letters of Venia Ætatis.

3 The Governor of this colony for the time being shall have and enjoy within and over each and every district thereof all such rights and powers in respect of granting letters of Venia Ætatis as are now possessed and may lawfully be exercised by him within the Maritime provinces thereof.

As to the validity of foreign wills.

4 Every will made beyond the limits of this colony containing any devise or disposition of immovable property situate within this colony, which shall have been duly made and executed according to and in conformity with the forms and solemnities prescribed by the law of the country where the same shall have been so made and executed, by any person who by the law of such country or of this colony is competent to make a will, shall be valid and effectual to alienate and pass the property in any immovable property so devised or disposed of by any such testator ; and every will duly made and executed in manner aforesaid, in any place beyond the limits of this colony, by any person who shall be competent to make a will by the law of the place where he shall be domiciled at the time of making and executing the same, shall be valid and effectual to alienate and pass the property in any movable property by such will bequeathed or disposed of, anything contained in the Ordinance No. 7 of 1840, entitled "To provide more effectually for the prevention of Frauds and Perjuries," or any other law or custom to the contrary notwithstanding.

As to the re-execution of wills.

5 Every will re-executed or republished, or revived by any codicil, shall for the purpose of this Ordinance be deemed to have been made at the time at which the same shall be so re-executed or republished or revived.

Effect of previous settlement.

6 *In all cases of marriages contracted either within any part of this colony or abroad without a nuptial contract or settlement, the respective rights and powers of the parties during the subsistence of the marriage in and about the management, control, disposition, or alienation of any immovable property situated in any part of this colony, which belonged to either party at the time of the marriage, or has been acquired during the coverture, and also their respective rights in or to such property, or any portion thereof, or estate or interest therein, either during the subsistence of the marriage or upon the dissolution thereof, shall in all cases be determined according to the law of the matrimonial domicile ; and if the parties shall have entered into a nuptial contract or settlement by which their or either of their rights, powers, or interests in, to, or over any such property as aforesaid are ascertained and determined, or by which either party shall be declared entitled to a defined portion of or interest in the common estates, or to any provision by way of dowry or maintenance, or otherwise, out of the separate estate of the other of such parties during the

* Repealed so far as inconsistent with No. 15 of 1876.

Digitized by Google

subsistence of the marriage or at the dissolution thereof, then and in any such case neither of the parties shall be entitled, upon the dissolution of the marriage, to any other or greater portion, interest, or provision in or out of any such property as aforesaid, than in and by such nuptial contract or settlement such party shall be declared entitled to, whether or not it shall be expressly stated therein that such portion, interest, or provision was in lieu of the right or interest which such party would otherwise have had in such property as aforesaid if such nuptial contract or settlement had not been made.

7–19 Repealed by No. 11 of 1852.

20 And for the avoiding of all doubts and questions as to the respective rights of persons jointly holding landed property situated within certain districts of this colony, it is further enacted and declared that all landed property situated in this colony which shall belong to two or more persons jointly, whether the same shall have come to them by grant, purchase, descent, or otherwise, is and shall be deemed and taken to be held by them in common, and upon the decease of any of such persons the said property so jointly possessed shall not remain or belong to the survivor, but all the right, share, and interest of the person so dying in and to the property so jointly possessed as aforesaid shall form part of his estate ; and the person or persons to whom the same shall by him be devised or bequeathed, or to whom it shall devolve, shall thereupon become and be co-proprietors with the survivor in the said property, in the proportion and according to the share of such deceased person therein, unless the instrument under which the said property is jointly held and possessed, or any agreement mutually entered into between them, shall expressly provide that the survivor, upon such decease, shall become entitled to the whole estate.

No survivorship as to property undivided held in shares, unless expressly stipulated for.

21 Whenever in this Ordinance the word " will " is used it shall be construed to extend to a testament and to a codicil, and to any other testamentary disposition ; and whenever the words " landed property" are used they shall be construed to extend to houses and buildings erected on the same, and to any estate, right, or interest (other than a chattel interest) therein ; and whenever the word "representative" is used it shall be construed to mean the party legally entitled to appear and act for and on behalf of another, as his guardian, tutor, curator, or attorney, as the case may be ; and whenever any word or words is or are used importing the singular number or the masculine gender only, yet such word or words shall be understood and construed to include several persons as well as one person, females as well as males, and several matters or things as well as one matter or thing, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

Interpretation of terms.

23rd December, 1844.

Digitized by Google

No. 13 of 1845.

An Ordinance to regulate the Temporal Affairs of the Presbyterian Church in Kandy, in the Island of Ceylon.

Preamble.

WHEREAS by the Ordinance No. 1 of the present year 1845, entitled "An Ordinance to promote the building of places of Christian worship, and to provide for the maintenance of ministers of the Christian religion," it is amongst other things provided that before any sum of money shall be issued from the colonial treasury for the erection of any place of worship, trustees shall be elected or appointed in such manner as shall be by any future Ordinance provided, in whom the real estate in the site of such place of worship or minister's dwelling, or both, as the case may be, and of any lands and hereditaments thereunto belonging, shall be vested upon such trusts as shall in such future Ordinance be declared : And whereas it is proposed to erect a Presbyterian place of worship in the town of Kandy, and a dwelling house for the minister of such proposed place of worship has already been erected, and it is expedient that provision should be made, as well for the original nomination of trustees as for maintaining from time to time a proper number of duly qualified trustees, in manner hereinafter mentioned, and for defining the manner in which the trusts hereby created shall be fulfilled, and otherwise for regulating the temporal affairs of the said Presbyterian church and minister's dwelling with lands and hereditaments as aforesaid :

Original trustees how appointed.

1 The first or original trustees of the Presbyterian church aforesaid shall be elected and appointed in the manner following, that is to say, the persons who have subscribed towards the erection of the said place of worship and minister's dwelling, or any three or more of them, shall and may at any time after the passing of this Ordinance convene a meeting of the subscribers (of the time and place of holding which fourteen days' notice shall have been previously published in the *Government Gazette*), at which meeting three persons shall be elected by majority of votes to act as trustees until Monday in the last week in December next ensuing after the said place of worship shall have been opened for Divine worship.

Trustees to rent out sittings in church.

2 On the completion of the said place of worship, and before or so soon as shall be practicable after the same shall have been opened for Divine service, the trustees then in office shall, except as hereinafter excepted, rent out the sittings therein according to such general scale, and agreeably to such regulations for fixing the rates of seat rents, and other matters connected therewith, as shall have been agreed upon by the majority of subscribers present at the meeting held for the election of such trustees, or of any other meeting of subscribers to be specially convened by the said trustees for that purpose.

Digitized by Google

3 Upon Monday in the last week of every month of December after the said place of worship shall have been opened for Divine service, there shall be appointed for the year commencing on the first day of January then next ensuing three new trustees, of whom one shall be appointed by the minister of such place of worship for the time being, and two by a majority of the seatholders present at a meeting to be convened for that purpose by the trustees for the time being, and to be holden at such hour and place as shall be specified in a notice to be posted for that purpose in some conspicuous place in such place of worship for at least fourteen days previously to the day fixed for the holding of such meeting: Provided always that nothing in this clause contained shall be construed to prevent the re-appointment at any such meeting of all or any of the trustees who shall at the time of such meeting be actually in office; and provided further, that in case the minister shall fail to make such appointment, or the trustees shall fail to call such meeting, or in case at any time there shall not be any duly appointed trustee, it shall be lawful for the Governor and Executive Council to nominate so many persons as are required for completing the number of trustees to be trustees until the next ensuing annual meeting.

Annual meeting in December.

4 In case of the death, incapacity, resignation, or departure from the island of any trustee appointed or elected under the provisions of this Ordinance before the expiration of the period for which he shall have been so appointed or elected, or in case any such trustee shall be absent from the colony, or be in a part thereof remote from the said place of worship for more than six months in succession, or shall be a confirmed lunatic, or shall be or become disqualified to act in such capacity, it shall be lawful for the remaining trustees to convene a special meeting of seatholders for the election of a new trustee or new trustees, as the case may be, to supply the vacancy or vacancies so created during the remainder of that period: Provided that no trustee shall be permitted to resign his office until he shall have duly accounted to the satisfaction of his co-trustees for all sums of money at any time received by him in his said trust; and provided also, that where any such vacancy shall in any year arise after the month of June, no such new appointment shall be necessary, but the powers which by this Ordinance are given to the trustees may, until the next annual meeting, continue to be exercised by the remaining trustees or trustee; and provided always that if any such vacancy shall occur among the first or original trustees before the said place of worship shall have been opened for Divine service, it shall be lawful for the remaining trustees (subject to the approval of the Governor and Executive Council) to fill up the same.

Vacancies in the office of trustee how filled up.

5 The minister of the said church for the time being shall *ex officio* be entitled to be present at and to be the chairman of all meetings of the trustees, or other meetings concerning the affairs of the said church, and shall at all such meetings be privileged to vote upon any question

Minister to be chairman at meetings of trustees.

Digitized by Google

concerning the affairs of the said church or concerning the minister's dwelling thereof; and in case there should at any such meeting be an equality of votes, the chairman, whether the minister or other person, shall have a casting vote; and the chairman of every meeting for the election of any trustees or trustee under any of the provisions of this Ordinance shall, after signing the minutes thereof, transmit the names of the persons or person so elected for the approval of the Governor and Executive Council.

Who may be a trustee.

6 Every person who shall be elected or appointed as trustee for the said Presbyterian church as aforesaid shall be a member of the congregation of the said church, either as a seatholder or a communicant, and above the age of twenty-one years, and any trustee ceasing to be either a seatholder or a communicant, as the case may be, shall be held *ipso facto* to have resigned his office, and thereupon a new trustee shall be elected in the manner provided by the fourth section of this Ordinance.

Objects of the trust.

7 The said first or original trustees, and all others who shall from time to time be hereafter elected as trustees under any of the provisions of this Ordinance, shall during the time of their continuance in office stand and be possessed of all the real estate in the site of such place of worship and minister's dwelling, and of the buildings constructed or to be constructed thereon, and of the lands and hereditaments thereunto belonging or appertaining, and of all sums of money already given or subscribed towards the erection of the said place of worship or minister's dwelling, and of all such sums of money as shall at any time hereafter be granted to them from the colonial treasury, and of all such donations and subscriptions as shall at any time hereafter be given or subscribed for the purpose aforesaid, or in aid of the funds of the said church, and of all rents and revenues arising from the letting of pews or sittings, and of all fees and payments for vaults, monuments, tombstones, and the like, and of all rents and revenues arising out of any of the lands or hereditaments belonging or appertaining to the said place of worship or minister's dwelling or otherwise, upon trust in the first place, and until the said place of worship shall be erected and completed, to cause the same to be erected and completed according to such plan and specification thereof as shall be approved by the Governor and Executive Council, and after the completion of the said place of worship to inclose the ground surrounding the same, and the minister's dwelling which has been already erected, and to do other necessary works connected therewith; and also upon trust thereafter to pay and apply the said sums of money, donations, subscriptions, rents, fees, and revenues, for repairing, keeping up, and maintaining the said place of worship and minister's dwelling, and the said inclosure; and lastly upon trust to provide such articles as may be necessary for the proper celebration of Divine service in the said place of worship, and to pay the salaries of the clerk, servants, and officers employed in and about the same.

Digitized by Google

Place of worship to be for ever holden for the purposes for which originally erected.

8 The said place of worship and minister's dwelling shall, with their respective appurtenances, be and continue to be for ever dedicated to the purposes and holden solely for the uses and be appropriated to the service of the religious denominations of Presbyterians adhering to the Westminster Confession of Faith, for which the same are or shall be originally erected.

Trustees to let pews and seats, and manage the temporalities.

9 It shall be lawful for the trustees for the time being, subject to such general rules as shall be from time to time established by the seatholders at any such annual meeting in December, to fix the amount which shall be payable for the rent of pews and seats in such place of worship, and the amount of fees which shall be payable for vaults, monuments, and tombstones, and to let such pews and seats (subject to all existing rights therein, if any) in such manner and to such persons as they the said trustees shall think fit; and to appoint, suspend, and remove all church officers and servants employed in or about such place of worship (the minister's clerk or precentor excepted, who shall in each case be appointed and removed by the minister only), and generally to manage the temporalities of such place of worship, and to fix the salaries or other remuneration of all such officers and servants (including such clerk as aforesaid): And it is also hereby declared that the said trustees shall have no power or authority to appoint or dismiss the minister of such place of worship.

Two trustees to form a quorum.

10 The trustees for the time being shall upon all matters before them have each one vote, and any two of them shall form a quorum, and in the event of a difference of opinion between such trustees on any occasion the votes of any two of them (where three are present) shall be binding upon all; or in case of an equality of votes when the trustees and the minister are all present, the minister shall possess a casting vote; and the trustees for the time being shall have power from time to time to make by-laws (such laws not being inconsistent with or repugnant to this Ordinance) for their general guidance, which laws shall be equally binding on and shall be observed by their successors until abrogated or altered by such successors.

Auditors to be elected at annual meeting.

11 At every meeting held in the last week of December as aforesaid for the appointment of trustees after the said place of worship has been opened for Divine service, two indifferent persons shall be elected by and out of the seatholders to be auditors of the account of the trustees then about to quit office, and in the month of January following the trustees who have so quitted office shall cause a true and particular account of their receipts and expenditure during the period they have held office, duly audited and signed by the auditors, to be transmitted to the Governor, in order that, should it be deemed expedient by him, the same may be published in the *Government Gazette* for general information.

Minister to have right of

12 It shall and may be lawful for the minister of the said church for the time being to have free access and admission

Digitized by Google

access to church, and use of house.

to the said church, and the burial ground belonging thereto and every part thereof, at all times as he shall think fit, and freely to exercise his spiritual functions therein, without any hindrance or disturbance of the trustees of the same or any person whatever; and such officiating minister shall or may, during such time as aforesaid, freely use, have, possess, and enjoy the minister's dwelling house and appurtenances belonging to the said church, and shall or may, with the consent of the trustees for the time being, but not otherwise, let the said dwelling house and appurtenances to any other person: Provided that no such liberty of access and admission to such house of residence as aforesaid, nor occupation of the same, for any length of time whatever, shall be construed to confer any right of property in the same upon the said minister or other parties by whom such dwelling house and the appurtenances may have been so occupied, nor any right or title to retain possession of the same after such minister shall have been removed from his office, or after his resignation thereof, or during his absence from the colony or suspension from his office, nor shall the same be pleaded in bar of any ejectment which may be brought by or on behalf of the trustees of the church as aforesaid for recovering possession of such house of residence and the appurtenances thereof.

Such possession not to confer right of property.

Trustees may sue and be sued.

13 It shall be lawful for the trustees for the time being to call in and compel the payment of all sums of money which are or at any time hereafter shall be due and payable to them under and by virtue of any of the provisions of this Ordinance, and in their own names to make and enter into, perform, and execute, and compel the performance and execution of all such contracts and agreements, matters and things, and to commence and maintain all such suits and actions as they shall deem necessary to the performance of the trust reposed in them; and all such contracts and agreements shall and may be entered into and enforced, and all such suits and actions be brought by them, in the name of "The Trustees of the Presbyterian Church at Kandy" (*describing the place of worship by its name after it shall have been named*), without specifying the christian or surnames of the trustees; and no action shall abate by reason of the death or removal or going out of office of any trustee; and all suits or actions the cause of which shall arise or accrue to any person whatsoever from or by reason of any contract or agreement or any other matter or thing made or entered into, done, or performed by the said trustees in the execution of the said trust, shall be brought by such person against the trustees under the name and title aforesaid, nor shall any trustee, by reason of his being a plaintiff or defendant in any such suit, be prevented from being a witness therein.

Right of voting at meetings.

14 The right of voting at every meeting convened in respect of such place of worship shall, until the said place of worship shall be opened for Divine service as aforesaid, be vested in subscribers who have paid up their subscriptions previous to the date of the notice to convene such meeting;

Digitized by Google

and from and after such time as the said place of worship shall have been so opened the right of voting at every annual meeting shall be vested in renters of sittings in the said place of worship who shall have duly paid up their rent: Provided always that no such subscriber or renter of sittings shall on any occasion be allowed to give more than one vote, or to give any vote except in person; and provided that no person shall be entitled to vote who shall not be a male of at least twenty-one years of age.

Trustees to take grants of lands.

15 It shall be lawful for any trustees appointed or elected under the provisions of this Ordinance to accept or take from persons willing to give the same, or from the Crown, subject to the provisions of any law now or hereafter to be in force relative to such gifts, any lands or premises adapted for the site of the place of worship to be erected under the provisions of this Ordinance, or of a minister's dwelling, with a garden and other appurtenances thereunto, or any lands or premises adapted for the purposes of a burial ground, or any lands or premises for the maintenance of such place of worship or of the ministers thereof, and such land or premises so given shall be deemed and taken to be for ever vested in the trustees of such place of worship for the time being in trust for the purposes thereof.

Free sittings reserved.

16 On the completion of the said church one sixth part of the whole number of sittings therein shall be appropriated to the use of the poor as free sittings; and if at any future period the number of sittings in the said church shall be increased, there shall be appropriated to the use of the poor so many additional free sittings as that the number of free sittings shall always bear the same proportion to the whole number of sittings as is hereinbefore provided.

Certain conditions of former Ordinance declared to be fulfilled.

17 And whereas in the aforesaid cited Ordinance it is provided that no sum of money shall be issued from the colonial treasury until the whole amount required to be furnished by subscription shall have been deposited in the colonial treasury, nor until a specification and plan of the intended place of worship or minister's dwelling, or both, as the case may be, shall have been submitted to the Governor and the Executive Council and approved of by them: And whereas in the case of the Presbyterian church in Kandy it has been made evident that the subscribers have completed the erection of a minister's dwelling, and have expended therein the sum of six hundred and ten pounds: It is hereby enacted that the said conditions, so far as relates to the minister's dwelling, shall be regarded as having been fulfilled, and the said sum of six hundred and ten pounds shall be and is hereby held to have been paid into the colonial treasury.

Ordinance to be deemed a public one.

18 This Ordinance shall be deemed and taken to be a public Ordinance, and shall be judicially taken notice of as such by all judges, magistrates, and others without being specially pleaded.

12th December, 1845.

Digitized by Google

No. 12 of 1846.

An Ordinance to regulate the Temporal Affairs of the Episcopal Churches in the Island of Ceylon which have been erected, or are now in course of erection, or which may hereafter be erected, in terms of the Ordinance No. 1 of 1845.

(*As amended by No. 30 of 1890.*)

Preamble.

WHEREAS by the Ordinance No. 1 of 1845 it was enacted that whenever any sum of money not less than one hundred pounds should be raised by subscriptions drawn exclusively from the resources of private persons for the erection of any place of Christian worship in any part of this colony, or for the erection of any such place of worship together with a minister's dwelling, or for the erection or purchase of a minister's dwelling alone in respect of any existing place of worship, in the building or maintenance of which any public monies had been expended, it should be lawful for the Governor, with the advice of the Executive Council, to cause to be issued from the colonial treasury, as a contribution from the public funds, such sum or sums of money as should be equal to the amount of such subscription; provided that no such sum should be issued from the colonial treasury until the whole amount required to be furnished by subscription should have been deposited therein, and a plan of the intended building submitted to the Governor and Executive Council and approved of by them : And whereas by the said Ordinance it was further enacted that before any sums of money should be issued from the colonial treasury as aforesaid trustees should be elected or appointed in such manner as should by some future Ordinances be provided : And whereas certain churches for the celebration of Divine service according to the rites of the United Church of England and Ireland have been erected or are now in course of erection by subscription and by contribution from the public funds as aforesaid, and it is expedient to make provision for the management of the temporal affairs of the said churches, and of any others which may hereafter be erected in like manner for the purpose aforesaid :

Notice of election for church already erected,

1 Within three months from the passing of this Ordinance, the colonial chaplain of any church already erected in manner aforesaid shall fix a place and a day, which shall not be earlier than twenty-one days from the passing of this Ordinance, for holding a general meeting for the election of trustees of the said church in manner hereinafter appointed, and shall cause notices thereof to be affixed to some conspicuous parts of the said church.

or in course of erection,

2 The building committee or persons in charge of the building of any church now in course of erection in manner aforesaid shall, within ten days from the passing of this Ordinance, fix a place and a day in the month of December

Digitized by Google

next ensuing for holding a general meeting for the election of trustees of the said church in manner hereinafter appointed, and shall give notice thereof in three successive *Government Gazettes.*

3 The building committee or persons who may be in charge of the building of any church to be hereafter erected in manner aforesaid shall, at the time of making application to the Governor for a contribution from the public funds, fix a place and a day for holding a general meeting for the election of trustees of the said church in manner hereinafter appointed, and shall give notice thereof in three successive *Government Gazettes.* **or to be hereafter erected.**

4 Any election to be held under the provisions of the three preceding clauses shall be held before the person or persons by whom the day and place for holding the same shall have been fixed; and it shall be lawful for the subscribers to any church of which the sittings shall not have been apportioned, or for the seatholders, if the same shall have been apportioned, in respect of which such election shall be held, to elect three trustees of such church: Provided always that no subscriber or seatholder shall be entitled to give more than one vote, or to give any vote except in person, and that no person shall be entitled to vote who shall not be twenty-one years of age, and the person or persons holding any such election shall record the names of the voters and of the persons for whom their votes shall be given, and shall at the close of the election declare the names of the three persons for whom the greatest number of votes shall have been recorded, who shall thereupon be deemed to be duly elected as trustees, and shall grant to such persons certificates under their hands of such their election. **Mode of holding election.** **Mode of voting.**

5 The trustees elected under the provisions of the preceding clause shall without delay communicate such their election to the Bishop of the diocese, who shall thereupon be entitled to appoint one other person to be a trustee of the church in respect of which such trustees shall have been elected, and shall grant to such person a certificate of such his appointment; and it shall be lawful for the Bishop from time to time, if he shall see fit so to do, to withdraw any such appointment, and to appoint some other person to be a trustee of such church, and to appoint a new trustee in the place of any trustee originally appointed by him who shall in any manner have vacated his office. **Appointment by Bishop of one trustee.**

6 In case of the death, incapacity, resignation, or departure of any trustee of any church elected under the provisions of this Ordinance, or of his ceasing to be a seatholder, or of his election not being confirmed by the Governor, or in case any such trustee shall be a confirmed lunatic, or shall be or become disqualified to act in such capacity, the remaining trustees of such church shall fix a place and a day for holding an election of a new trustee, and shall give notice thereof in the three *Government Gazettes* published next **Vacancy of trustee.**

Digitized by Google

immediately preceding such day, and such election shall be held by the said trustees according to such and the same forms as are hereinbefore prescribed for the election of the original trustees.

Qualification of trustee.

7 Every trustee to be elected or appointed under the provisions of this Ordinance shall be a member of the United Church of England and Ireland, and no person shall be elected or appointed or shall continue to be a trustee of any church after the apportionment of the sittings in the same unless he shall be one of the seatholders therein.

8 Repealed by No. 3 of 1894.

Trustee resigning to render account.

9 No trustee shall be permitted to resign his office until he shall have duly accounted, to the satisfaction of his co-trustees, for all sums of money at any time received by him in his said trust.

Annual election of trustees.

10 No trustee elected under any of the provisions of this Ordinance shall continue in office beyond the thirty-first day of December next ensuing after such his election; and the trustees for the time being of any church erected or to be erected in manner aforesaid shall fix a place and a day in the month of December in every year for the holding before them of a general meeting for the election of three new trustees of such church for the year commencing on the first of January next ensuing, and shall give notice thereof in the three *Government Gazettes* published next immediately preceding such day, and shall cause written notice thereof to be posted for fourteen days in some conspicuous place on or near the church; and such election shall be held according to such and the same forms as are hereinbefore prescribed for the election of the original trustees of such church: Provided always that nothing herein contained shall be construed to prevent any person who at the time of holding such election may be one of the trustees of any such church from being elected as such for the ensuing year.

Bishop to appoint in default of election of trustees.

11 If after the election and appointment of the original trustees of any such church the trustees for the time being shall, for the period of one month, neglect to fix a place and a day for holding an election of a trustee in the room of one who may in any manner have vacated his office, or whose election the Governor shall have refused to confirm, or if they shall for the like period neglect to fix a place and a day for holding an election of trustees for the ensuing year as hereinbefore appointed, it shall be lawful for any six of the subscribers to such church, or if the sittings shall have been apportioned, for any six of the seatholders, to fix such place and day, and to give notice of the same in manner hereinbefore appointed; and such election shall be held before the chaplain or clergyman of such church; but if no such election shall be held within two months from the time appointed by this Ordinance it shall be lawful for the Bishop of the diocese to appoint by writing under his hand, subject to approval of

Digitized by Google

the Governor, one or more fit and proper person or persons to be trustee or trustees of such church to fill the vacancy or vacancies which shall have thus occurred, and every such trustee so appointed shall continue in office until the thirty-first day of December next ensuing.

12 Nothing in this Ordinance contained shall be construed to prevent any person or persons who may hereafter, without any pecuniary or other contribution from the Government, erect any church for the celebration of Divine service according to the rites of the United Church of England and Ireland, from nominating the Bishop of the diocese for the time being and his successors to be the sole and successive trustees of such church, and in any such case the Bishop shall hold, exercise, and enjoy in respect to such church all the rights and privileges vested in trustees elected or appointed under this Ordinance. **Bishop may be sole trustee.**

13 The colonial chaplain or clergyman for the time being duly appointed and licensed to any church erected in manner aforesaid, or during his absence the clergyman duly authorized to officiate for him, shall, whenever present at any meeting of the trustees of such church, be *ex officio* chairman of such meeting, but shall not have the power of voting except in cases where the votes of the trustees present shall be equal; and when no such chaplain or clergyman is present the trustees shall elect their own chairman, and such trustees shall upon all matters before them have each one vote, and any three such trustees, or any two with the *ex officio* chairman, shall form a quorum, and any such quorum shall and may exercise all the powers and privileges which are vested in the trustees of any church by this Ordinance; and in the event of a difference of opinion between such trustees on any occasion, the votes of the majority shall be binding upon all; and in case of an equality of votes, and in the absence of the chaplain or clergyman, the chairman for the time being shall, in addition to his own vote, possess a casting vote, and such trustees shall have power from time to time to make by-laws (such laws not being inconsistent with this Ordinance) for their general guidance, which laws shall be equally binding on and shall be observed by their successors until by them abrogated or altered: Provided always that the meetings of the trustees shall take place on stated days agreed to by a majority for the transaction of ordinary business, and that if the meeting be extraordinary or special seven days' notice thereof, and of its object, shall be given in writing to each of the said trustees and to the chaplain or clergyman, and that it shall at any time be competent for any two of the said trustees to convene such special meeting. **Chaplain or clergyman chairman of trustees.**

14 The real estate and property in any church of which trustees shall be elected and appointed in the manner aforesaid, and in any burial ground now belonging or which may at any time hereafter belong thereto, and their appurtenances respectively, and in all lands and hereditaments and in all **Property vested in trustees.**

Digitized by Google

monies and chattels belonging or which may hereafter belong thereto, shall be deemed and taken to be vested in such trustees for the purposes of their trust.

Trustees to make agreements, &c.,

15 It shall be lawful for the said trustees to make or enter into, perform, and execute, and compel the performance and execution, of all such contracts and agreements, matters and things, and to commence and maintain all such suits and actions as they shall deem necessary to the performance of the trust reposed in them; and all such contracts and agreements shall and may be entered into and enforced, and all such suits and actions be brought by them in the name of "The Trustees of the Church," specifying the name of the church, but without specifying the christian or surname of the trustees, and no action shall abate by reason of the death or removal or going out of office of any trustee; and all suits and actions the cause of which shall arise or accrue to any person whatsoever from or by reason of any contract or agreement, or any other matter or thing made or entered into, done, or performed by the said trustees in the execution of the said trust, shall be brought by such person against the said trustees under the name and title aforesaid; nor shall any of the said trustees, merely by reason of his being a plaintiff in any such suit, be prevented from being a witness therein.

and sue and be sued.

Trustees to apportion sittings.

16 The said trustees shall and they are hereby required as soon as may be after their election and appointment, or as soon as possible after the church shall be ready for the performance of Divine worship, to set out and apportion sittings in the church intrusted to them, and to affix and assess a rent or rate for such sittings, and make agreements and contracts with any person desirous to engage the same according to such assessment: Provided always that one sixth part of the whole number of sittings in any such church shall be appropriated free of any charge whatever to the use and accommodation of the poorer classes of the population, and also not less than four sittings for the use and occupation free of all charge of the chaplain or clergyman; and such sittings shall for ever be kept apart for the purposes aforesaid.

Subscribers entitled to sittings.

17 Every subscriber to any church erected in manner aforesaid, provided he be *bonâ fide* resident within twenty miles of the same, shall be entitled to engage such number of sittings therein as he may really require for the use of himself and his family, and the priority of choice amongst such subscribers shall be determined by the trustees; and after all the sittings shall have been so apportioned in the first instance, the trustees shall register in a book, to be by them kept for that purpose, all subsequent applications for sittings in the order in which they may be received by them, and shall allot such sittings as may thereafter become vacant to the parties who may have applied for the same according to such order.

Trustees to collect monies,

18 It shall be lawful for the said trustees, and they are hereby required, to collect and gather, or cause to be collected and gathered, all sums of money which shall be due for

Digitized by Google

sittings in any such church, and all subscriptions and donations thereunto, and all rents and revenues that may at any time arise out of any land or hereditaments or from any property whatever belonging to such church, and all fees and payments for vaults and tombstones, and to apply for the said sums; and it shall be lawful for the said trustees in conjunction with the chaplain or clergyman of such church, who in respect of such appointments or removals shall have a vote, to appoint, suspend, and remove all church officers and servants employed in or about any such church (the clerk of the same excepted, who shall in each case be appointed and removed by the chaplain or clergyman only), and it shall be lawful for the said trustees generally to manage the temporalities of every such church, and to provide such articles as may be necessary for the proper celebration of Divine service therein, and to fix the salaries or other remuneration of all such officers and servants (including such clerk as aforesaid), and to pay the amount thereof respectively, and of all repairs of buildings and other expenses, which circumstances may from time to time render necessary by or out of such rents and fees as aforesaid, or out of such other funds as may come to their hands.

and remove officers,

and defray necessary expenses.

18 (*a*) *It shall be lawful for the said trustees, after defraying such necessary expenses as are specified in the preceding section, to spend any income, rents, revenues, interest, fees, collections, or subscriptions, or any other funds which may come into their hands as trustees of any such church, in the purchase or acquirement of property of any description for the purposes of their trust, or in the payment of the stipends of the clergy, teachers, and catechists of such church, or in the erection or purchase of a parsonage for the use of the clergyman of such church, or for the maintenance of such parsonage and of schools or missions attached to such church, or on any other religious work connected with such church.*

Trustees authorized to acquire property and maintain parsonages, schools, and missions out of income and collections.

[§ *1, 30 of 1890*

19 It shall and may be lawful for the said trustees, with the previous consent of the Bishop of the diocese, and with his approval of any proposed epitaph or inscription, to permit any monument to be erected or placed in such parts of any church erected or to be erected as aforesaid, or of the enclosed ground about the same, or of the burial ground belonging thereto, as they may deem convenient, or vaults to be dug and made in the said burial ground, upon payment to the said trustees, for the use of such church, for such permission, by the person or persons desiring to erect or place any monument therein or enclosed ground about the same, or in the said burial ground, or to dig and make any vault in the said burial ground, of such charges as to the said trustees shall appear fitting; provided that the same shall in no case exceed the charges set forth in the schedule hereunto annexed; and it shall be lawful for any person or persons erecting or placing any monument in any such church or enclosed ground about the same, or digging or making any vault in the said burial ground, by and with such permission as aforesaid, to

Erection of monuments, &c.

Digitized by Google

have and maintain and keep up such monument or vault, according to the terms of such permission, to and for the sole and separate use of the said person or persons and his or their heirs for ever: Provided always that it shall not be lawful to bury any body within any such church or within the enclosed ground about the same.

Appointment of auditor.

20 One person, not being a trustee, shall be elected at a general meeting to be called by the trustees in the first week in January in every year, to be an auditor of the yearly accounts of the said trustees.

Trustees to keep account.

21 The said trustees shall keep an account, wherein they shall enter all monies received and paid by them under and by virtue of the provisions of this Ordinance, which account the auditor may inspect at all reasonable times, and the said account, together with any report of the auditor thereon, shall be laid before the general annual meeting to be held under the provisions of the ninth clause of this Ordinance.

Trustees may accept lands.

22 It shall be lawful for the said trustees to accept or take from persons willing to give the same, or from the Crown, subject to the provisions of any law now or hereafter to be in force relating to such gifts, any lands or premises adapted for the site of a chaplain's dwelling, with the garden and other appurtenances thereunto, or any lands or premises adapted for the purposes of a burial ground, or any lands or premises for the maintenance of such church or of the chaplain thereof, and such lands or premises so given shall be deemed and taken to be for ever vested in the trustees of the said church for the time being in trust for the purposes thereof.

Performance of service for troops.

23 It shall be lawful for the Governor, should circumstances render the same necessary, to require the free use of any church erected or to be erected in manner aforesaid for the performance of Divine service for the benefit of any troops stationed at or near to the same, at such hour during any Sunday as may be fixed by the said Governor after communication with the Bishop of the diocese: Provided always that such extraordinary service shall not interfere with the ordinary services of the day.

24 Repealed by No. 3 of 1883, itself repealed by No. 15 of 1898.

Exclusive privileges of chaplain.

25 No person shall be suffered to perform Divine service or to administer the sacraments, or to preach any sermon in any such church, except the Bishop of the diocese, the archdeacon, and the colonial chaplain duly appointed and licensed to such church, or some clergyman duly appointed by the ordinary.

Ordinance not to affect Ordinance No. 11 of 1842.

26 Nothing in this Ordinance contained shall or shall be deemed and taken to affect the Ordinance No. 11 of 1842, entitled "An Ordinance to provide for a Church in Kandy," or to extend the provisions of this Ordinance to such church, but the said Ordinance No. 11 of the year 1842 shall continue to be of full force and effect, and the affairs of the said church in Kandy shall continue to be regulated thereby.

Digitized by Google

SCHEDULE.

Erecting a tablet or monument in the church, not less than five pounds nor more than twenty pounds.

Erecting a monument in the ground adjoining the church, not being the burial ground, any sum not less than three pounds nor more than ten pounds.

Burial in a brick or stone grave in the burial ground, one pound

Headstone or footstone (each), ten shillings.

A stone covering over such grave, one pound.

A vault, for each person it is capable of containing, one pound ten shillings; and on every occasion of its being opened, one pound.

A raised tomb over a vault, for each person it is capable of containing, one pound ten shillings.

26th November, 1846.

No. 30 of 1890.

An Ordinance to amend the Ordinance No. 12 of 1846.

WHEREAS it is expedient to amend the Ordinance No. 12 of 1846, intituled "An Ordinance to regulate the Temporal Affairs of the Episcopal Churches in the Island of Ceylon which have been erected, or are now in course of erection, or which may hereafter be erected, in terms of the Ordinance No. 1 of 1845," hereinafter referred to as "the principal Ordinance:" Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1 After section 18 of the principal Ordinance the following section shall be added and numbered 18 (*a*), namely: Section 18 (*a*) inserted after section 18.

It shall be lawful for the said trustees, after defraying such necessary expenses as are specified in the preceding section, to spend any income, rents, revenues, interest, fees, collections, or subscriptions, or any other funds which may come into their hands, as trustees of any such church, in the purchase or acquirement of property of any description for the purposes of their trust, or in the payment of the stipends of the clergy, teachers, and catechists of such church, or in the erection or purchase of a parsonage for the use of the clergyman of such church, or for the maintenance of such parsonage and of schools or missions attached to such church, or on any other religious work connected with such church. Trustees authorized to acquire property and maintain parsonages, schools, and missions out of income and collections.

2 It shall be lawful for the said trustees to lease any portion or portions of the real estate and property vested in them as trustees, or any right or privilege over or affecting any such estate or property, for the purposes of their trust, provided that the following conditions be observed: Power to trustees to lease real property for a term not exceeding ninety-nine years.

(1) Every such lease shall be made to take effect in possession at or within one year next after the making thereof, and shall be for such term, not exceeding ninety-nine years, as the trustees shall think proper.

(2) On every such lease shall be reserved the best rent or reservation in the nature of rent, either uniform or not, that can be reasonably obtained.

Digitized by Google

(3) Every such lease shall be by notarial instrument, and shall contain a condition for re-entry on non-payment of the rent for a period not less than twenty-eight days after it becomes due.

(4) Every such lease shall contain such covenants, conditions, and stipulations as the said trustees shall deem expedient with reference to the special circumstances of the demise.

Trustees to nominate clergymen.

3 It shall be lawful for the said trustees, on the death, retirement, removal, or incapacity of the colonial chaplain or clergyman of any such church, to nominate a fit person to be clergyman thereof, subject to the consent of the Bishop of the diocese, and to such rules made by the synod of the diocese in regard to such nomination as may be lawfully binding on them.

Trustees may sell if authorized thereto by trust deed.

4 Nothing in this Ordinance contained shall affect the right of the said trustees to sell any real estate and property vested in them as trustees in pursuance of, and in accordance with, the terms and conditions contained in the instrument or deed of trust.

To be read as one with Ordinance No. 12 of 1846.

5 This Ordinance shall be read as one with the principal Ordinance, and shall come into operation on the passing hereof.

17th December, 1890.

No. 3 of 1847.

An Ordinance to prohibit Natives of India from entering into Contracts in this Island for labour to be performed in any British or Foreign Colony beyond the limits of this Island and without the territories of the East India Company, and from emigrating from this Island to any such Colony for the purpose of employment as Labourers.

(*See No. 4 of 1882.*)

Preamble.

WHEREAS by Act XIV. of 1839 of the Governor-General of India in Council it was enacted that every person who should make with any native of India any contract for labour to be performed in any British or foreign colony without the territories of the East India Company, or who should knowingly abet or aid any native of India in emigrating from the said territories for the purpose of being employed as a labourer should be liable, on conviction, to certain penalties therein declared: And whereas it has been intimated to the Government of this colony that the provisions of the said recited Act will cease to have any force or effect in so far as regards the island of Ceylon so soon as the Governor-General of India in Council shall be duly certified that the Legislature of the said island has made such laws as the said Governor-General in Council shall think sufficient for the protection of natives of India emigrating to the said island against the evils which might attend their emigrating from the said island to any other British or foreign colony:

Digitized by Google

And whereas it is expedient that the Legislature of this island shall forthwith make provision for the protection of such natives against the evils aforesaid:

1 If any native of India who shall have emigrated therefrom to this island shall enter into any contract within the said island for labour to be performed in any British or foreign colony beyond the limits of the said island and without the territories of the East India Company, or shall embark or attempt to embark from any place in the said island on board any ship or vessel for the purpose of being conveyed to any British or foreign colony beyond the limits of the said island and without the territories of the East India Company, and of being employed in such colony as a labourer, every such native shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding five pounds.

Penalty on natives of India contracting for labour to be performed in any British or foreign colony, or embarking on board any vessel for the purpose of employment as labourer in any such colony, and on all persons aiding or abetting them.

2 Every person who shall enter into any such contract as aforesaid with any such native of India, or shall knowingly aid or abet any such native in embarking or attempting to embark from any place in this island on board any ship or vessel for the purpose of such conveyance and employment as aforesaid, or shall attempt by means of intoxication or by false imprisonment or other means of crimping to export any such native from any place in this island on board any ship or vessel for the purpose of such conveyance and employment as aforesaid, and every master or person in charge of a ship or vessel who shall admit any such native on board thereof for the purpose of such conveyance and employment as aforesaid, shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding five pounds for every native so contracted with, aided, abetted, exported, or admitted on board.

3 All powers vested by law in the officers of customs in regard to the searching and detention of ships and vessels, or otherwise for the prevention of smuggling on board thereof, may be exercised by such officers for the prevention of the illegal embarkation of natives of India on board of ships or vessels in any port, harbour, or roadstead in this island, and of other offences against this Ordinance; and all persons authorized to act as pilots in this island are hereby invested with the same powers and charged with the same duties as officers of the customs in this behalf.

Powers of search, &c., for the purposes of this Ordinance extended to officers of customs and pilots.

4 Nothing in this Ordinance contained shall be taken to apply to any native of India who shall of his own free will enter into any *bonâ fide* contract to serve on board any ship or vessel as a seaman or as a menial servant, or to any such native who shall embark or attempt to embark on board of any ship or vessel in pursuance of any such contract or as a menial servant, or to any person who shall enter into any such contract with any such native, or who shall aid or abet any such native in embarking or attempting to embark on board any ship or vessel for the purpose of serving as a seaman or menial servant, or to any master or person in

This Act not to extend to *bonâ fide* menial servants.

39—00 Digitized by Google

charge of any ship or vessel who shall admit any such native on board thereof for the purpose of such service as aforesaid, or to any native of India who shall hold a sufficient license or certificate of some competent authority in that country to enter into any contract for labour to be performed in any British or foreign colony beyond the limits of this island and without the territories of the East India Company, or to embark for or proceed to any such colony.

28th September, 1847.

No. 4 of 1882.

An Ordinance relating to the emigration of Native Labourers from this Island under contract of Service.

(As amended by No. 22 of 1884.)

Preamble.

WHEREAS it is expedient to regulate the emigration of native labourers under contract of service to labour in places without the limits of this island: It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Short title.

1 This Ordinance may be called "The Ceylon Emigration Ordinance, 1882," and shall come into force on the passing thereof.

Power to Governor, with the advice of Executive Council, to declare emigration lawful.

2 From and after the passing of this Ordinance the Governor may, with the advice of the Executive Council, from time to time, by notification published in the *Government Gazette*, declare that the emigration of the native inhabitants of this island shall be lawful to any place described in such notification, provided that every such notification shall contain also a declaration that the Governor has been duly certified that the Government of the place to which the notification refers has made such laws and other provisions as the Governor in Executive Council shall deem sufficient for the protection of the native inhabitants of Ceylon emigrating to such place.

Contracts with natives for performance of labour in any place to which emigration has been authorized, made lawful.

Such contracts to be signed before a police magistrate.

3 From the date of any such notification contracts may be made with any native inhabitant of Ceylon for labour to be performed in any place to which emigration is authorized in the notification, and it shall be lawful to enable or assist any native inhabitant to emigrate to such place; but all contracts and engagements under such notification shall be made and signed before a police magistrate, who is hereby authorized to take such signatures after reading over and explaining to the signatories the contract to be entered into by them.

Contracts for performance of labour in any place to which emigration has not been authorized unlawful.

[§ *1, 22 of 1884*]

4 It shall not be lawful for any person to make with any native inhabitant of this island any contract for labour to be performed in any *place* without the limits of this island to which emigration has not been declared lawful in manner aforesaid, and every person who shall make any such contract, or who shall knowingly aid or abet any native inhabitant of this island in emigrating from this island for the purpose of being employed under contract as a labourer, *except to a place to which emigration shall have been declared lawful*, shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding two hundred rupees for every native inhabitant so contracted with, aided, or abetted.

Exceptions.

Provided always that nothing in this Ordinance contained shall be taken to apply to any native seaman who shall of his own free will

Digitized by Google

contract to navigate any vessel, or who shall embark on board such vessel in pursuance of such contract, or to any person who shall contract to serve as a menial servant only, or who shall embark as such menial servant.

16th October, 1882.

No. 12 of 1848.

For making provision in certain respects touching the admission of Advocates and Proctors; and for the annual registration of Practising Proctors.

(*See No. 3 of 1890.*)

Preamble.

WHEREAS it is expedient to make provision in certain respects relating to the admission of advocates and proctors in this island: And whereas for the better regulation of proctors practising in this island it is expedient that every such proctor should be required to take out annually a certificate that the person named therein is a proctor and authorized to practise as such:

Admission of advocates and proctors.

1 It is therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, that from and after the time when this Ordinance shall come into operation when any order shall have been duly made for the admission of any person to act as an advocate or a proctor in any court of this island, the registrar of the Supreme Court of the said island shall and he is hereby required at the time of such admission to issue and deliver to the person so admitted a writing under the hand of such registrar and the seal of the said court, certifying the admission of such person as an advocate or a proctor as aforesaid, and specifying the court in which he has been admitted to act; and the several stamp duties specified in the table A* in the schedule to this Ordinance annexed shall be payable to Her Majesty on such admission: Provided that where any person duly admitted a proctor in any court of this island shall be afterwards admitted a proctor in any other court thereof, the latter admission shall be free of stamp duty; and no person not duly authorized to act as an advocate or proctor previously to the time when this Ordinance shall come into operation shall be entitled to act as an advocate or a proctor in any such court who has not obtained such written admission as aforesaid, anything in the charter or letters patent of King William the Fourth, dated the Eighteenth day of February, One thousand Eight hundred and Thirty-three, or in any rule or order of the said Supreme Court, or any usage or custom in anywise to the contrary notwithstanding.

Certificates to be granted yearly to proctors.

2 It shall be the duty of the registrar of the said Supreme Court, and of the several district judges of the respective district courts in this island, and they are hereby required, to grant or issue to every person entitled to act as a proctor

---

* Repealed by section 3 of No. 3 of 1890.

Digitized by Google

in any such court who shall apply for the same a certificate that such person is a proctor of such court, and duly authorized to practise as such therein; and all such certificates shall be applied for and granted on or before the twenty-fifth day of March in every year, and shall be in force for one year and no longer, and the several stamp duties specified in the table B* in the schedule to this Ordinance annexed shall be payable to Her Majesty on such certificates: Provided that if any proctor shall be entitled and shall intend to practise in courts situated at different places, he shall only be required to obtain one such stamped certificate yearly from the proper officer of any court in which he shall intend to practise; provided, however, that if different rates of stamp duty are chargeable on certificates issued to proctors practising at such places, the certificate so to be obtained shall be taken out in some court of the place where the highest amount of duty is chargeable.

On application for certificate a declaration to be made and entered in a book.

3 For the purpose of obtaining such certificate as aforesaid a declaration in writing, signed by such proctor or by his partner, containing his name and place of residence and the court or courts of which he is then admitted a proctor, together with the date of his admission as a proctor, shall be delivered to the said registrar or district judge, who shall cause all the particulars in such declaration to be entered in a proper book to be kept for that purpose, which shall be open to the inspection and examination of all persons without fee or reward; and the said registrar or district judge shall, as soon as conveniently may be after the delivery of such declaration (unless he shall see cause and have reason to believe that the party applying for such certificate is not upon the roll of proctors), deliver to the said proctor or his agent a certificate in the form hereunto annexed marked C, which shall bear such stamp as the same at the time of the granting thereof is hereby required to bear.

In case of neglect to obtain a stamped certificate, application to be made to the Supreme Court or a judge thereof.

4 If any proctor shall neglect to procure an annual stamped certificate authorizing him to practise as such within the time by this Ordinance appointed for that purpose, then and in such case the said registrar or district judge shall not afterwards grant a certificate to such proctor without the order of the Supreme Court, or a judge thereof, authorizing such registrar or district judge to issue such certificate; and it shall be lawful for the said Supreme Court or judge thereof to make such order upon such terms and conditions as they shall think fit.

Proctors practising without certificate incapable of recovering fees.

5 Any person who, as a proctor, after the twenty-fifth day of March next ensuing, shall sue, prosecute, defend, or carry on any action or suit, or any proceedings in any court, without having previously obtained such stamped certificate as aforesaid which shall be then in force, shall be incapable of obtaining any taxation of any bill of costs due to him, or of maintaining any action or suit for the recovery of any fee,

* Repealed by section 3 of No. 3 of 1890.

Digitized by Google

reward, or disbursement for or in respect of any business, matter, or thing done by him as a proctor as aforesaid whilst he shall have been without such certificate as aforesaid, and shall also incur and be liable to a fine not exceeding twenty pounds.

6 In case any such registrar or district judge shall decline to issue any such certificate as aforesaid the party so applying for the same shall and may apply to the Supreme Court, or to any judge thereof, who are hereby respectively authorized to make such order in the matter as shall be just. On refusal to grant any certificate, application to be made to the Supreme Court.

7 And it is further enacted that this Ordinance shall commence and take effect from and after the First day of January, One thousand Eight hundred and Forty-nine. Ordinance when to take effect.

[Tables A and B repealed. See schedule B, Part V., No. 3 of 1890.] [§ *3, 3 of 1890*]

TABLE C.

I, *A. B.*, registrar of the Supreme Court (*or* district judge of Kandy), do hereby certify that *C. D.*, of ———, hath this day delivered and left with me the declaration in writing signed by him (*or* by *E. F.*, his partner, on his behalf) required by the Ordinance No. 12 of the year 1848; and I further certify that the said *C. D.* is duly enrolled as a proctor in the Supreme Court of this island (*or* in the district court of Kandy) and authorized to practise as such therein.

In witness whereof I have this *25th* day of *June, 1848*, at *Colombo*, set my hand to this stamped certificate.

(Signed) *A. B.*,
Registrar.

23rd October, 1848.

No. 18 of 1848.

To remove doubts concerning the validity of Grants of Lands in this Island.

WHEREAS the Governors of this island have from time to time been authorized and empowered by Her present Majesty, and Her Majesty's last royal predecessor, by commission under the great seal, to make and execute grants of waste lands belonging to the Crown within this island to private persons: And whereas Her said Majesty, and Her Majesty's royal predecessor, did appoint and direct that such grants should pass in the name of Her Majesty or Her Majesty's royal predecessor, as the case might be, under the public seal of this island, and should be made to such private persons, and to their heirs and assigns, and that such grants should be enrolled in such courts as Her Majesty and her royal predecessor have respectively appointed and directed: And whereas in the exercise or supposed exercise of the powers and authorities in them so vested as aforesaid the respective Governors have from time to time made and issued grants or conveyances of lands situated in this island Preamble.

Digitized by Google

to divers private persons; but such grants or conveyances have not always been of waste lands, and have been made in the names of the said Governors and not in the name of Her Majesty or her royal predecessor, and have also been made to the grantee and to his heirs, executors, administrators, and assigns, and in many instances such grants or conveyances have not been duly enrolled in the proper court: And whereas doubts may be entertained whether such grants or conveyances made and issued as aforesaid, by reason of the informality thereof, are valid in the law or binding upon Her Majesty, her heirs and successors: And whereas to remove any such doubts, and to quiet the titles of persons holding or entitled to hold any lands in this island so granted or conveyed as aforesaid, Her Majesty hath graciously signified her royal will and pleasure, that all grants or conveyances of lands in this island made by any such Governor, in the exercise or supposed exercise of the power and authorities in them so vested as aforesaid, should be declared to be valid in the law, and binding upon Her Majesty, her heirs and successors, notwithstanding any such informality as aforesaid, subject to the limitation hereinafter contained:

Grants of lands heretofore issued by the Governors of this island declared valid, notwithstanding certain informalities therein.

1 All grants or conveyances of land at any time heretofore made and issued by or in the name of any Governor of the island, in the exercise or supposed exercise of the powers and authorities vested in him by Her Majesty, or by Her Majesty's royal predecessor, of any lands situated in this island, whether the same were waste lands or otherwise, and notwithstanding such grants or conveyances shall not be in the name of Her Majesty, or of Her Majesty's royal predecessor, or shall not be under the public seal of this island, and notwithstanding such grants or conveyances shall have been made to the grantee and to his heirs, executors, administrators, and assigns, and shall not have been duly enrolled in the proper court, shall be, and be deemed, taken, and held to be, and to have been, from the respective dates thereof, as valid and effectual in the law to grant and convey such lands, and shall be as binding upon Her said Majesty, her heirs and successors, to all intents and purposes as if such grants or conveyances had been of lands which were waste, and had been made and issued in the name of Her Majesty, or of Her Majesty's royal predecessor, and had passed and been executed under the public seal of this island, and had been made to the respective grantees and to their respective heirs and assigns, and had been duly enrolled in the proper court, anything in any such commission, or any law, custom, or usage to the contrary in anywise notwithstanding: Provided always that where in any case the invalidity of any such grant or conveyance shall be consequent upon the non-enrolment thereof in the proper court, nothing hereinbefore contained shall be deemed or taken to have rendered the same valid until the same shall have been enrolled in the district court of the district where the land thereby granted or conveyed shall be situate.

Such grants not hitherto duly enrolled to be enrolled in the district court.

13th November, 1848.

Digitized by Google

No. 1 of 1852.

For shortening the Language used in Ordinances.

WHEREAS it is expedient to shorten the language used in Ordinances; it is enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1 That the sections into which any Ordinance shall be divided, where there are more enactments than one, shall be deemed to be substantive enactments without any introductory words. Introductory words to the sections of Ordinances not required.

2 That in all Ordinances words importing the masculine gender shall be deemed and taken to include females, and the singular to include the plural, and the plural the singular, unless the contrary as to gender or number is expressly provided; and the word "Governor" shall be held to mean the person lawfully administering the government of this island for the time being; and the words "this island," "this colony," and the "island of Ceylon," shall be held to mean the island of Ceylon and the dependencies thereof; and the word "Ordinance" shall be held to include also Regulation; and the word "month" to mean calendar month, unless words be added showing lunar month to be intended; and the word "land" shall include messuages, tenements, and hereditaments, houses, and buildings, of any tenure, unless where there are words to exclude houses and buildings, or to restrict the meaning to tenements of some particular tenure; and the words "oath," "swear," and "affidavit," shall include affirmation, declaration, affirming, and declaring in the case of persons by law allowed to declare or affirm instead of swearing. Interpretation of certain words for future Ordinances.

3 That when any Ordinance repealing in whole or in part any former Ordinance or Regulation is itself repealed, such last repeal shall not revive the Ordinance or the Regulation, or the provisions before repealed, unless words be added reviving such Ordinance, Regulation, or provisions. Repealed Ordinances not revived by the repeal of the repealing Ordinance.

4 That whenever any Ordinance shall be enacted repealing in whole or in part any former Ordinance or Regulation, and substituting some provision or provisions instead of the provision or provisions repealed, such provision or provisions so repealed shall remain in force until the substituted provision or provisions shall come into operation by force of the last made Ordinance. Repealed provisions of an Ordinance to remain in force until the substituted provisions come into force.

5 Every Ordinance enacted after the commencement of this Ordinance shall be deemed and taken to be a public Ordinance, and shall be judicially taken notice of as such, unless the contrary be expressly provided and declared by such Ordinance. All Ordinances to be deemed public Ordinances unless the contrary is expressed.

This Ordinance shall come into operation from and after the passing thereof. Commencement of Ordinance.

25th August, 1852.

Digitized by Google

No. 3 of 1852.

To repeal the Regulation No. 8 of 1809, and to remove certain restrictions peculiar to the tenure of Service Parveny Lands.

Preamble.

WHEREAS it is expedient to repeal the Regulation No. 8 of 1809, and to remove certain restrictions peculiar to the tenure of service parveny lands; it is enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Repeal of Regulation No. 8 of 1809.

1 The Regulation No. 8 of 1809, entitled "For declaring the tenure of Service Parveny Lands, and to prevent the same from being aliened or incumbered," is hereby repealed.

Succession in female as well as in male heirs.

2 The privilege of succeeding to service parveny lands shall be in the female as fully as in the male heirs of all persons who shall die possessed of such lands after this Ordinance shall have come into operation, and such lands shall not revert to the Crown on the failure of male heirs; and such lands are hereby declared to be henceforth capable of alienation by gift, sale, devise, or other act, or of being charged or incumbered with any debt whatever; and such lands are hereby further declared to be henceforth liable to be sold by virtue of any writ of execution or other legal process of any court of this island.

Former sale and possession under writ of execution not invalid.

3 No sale of any service parveny land, or of any share thereof heretofore effected under any writ of execution or other legal process of any court of this island, and no sale or alienation of any such land, or of any share thereof heretofore effected by any person in the lawful possession thereof, shall be deemed to be invalid by reason of anything in the said Regulation No. 8 of 1809 contained, or by reason of such land being service parveny land, unless some suit or other proceeding at law touching the validity of such sale or alienation shall be pending at the time that this Ordinance shall come into operation, in every which excepted case such suit or proceeding shall be determined in such and the same manner as it would have been determined if this Ordinance had not been enacted.

Rate of tax not affected.

4 Nothing in this Ordinance contained shall or shall be construed to affect the rate of tax to which any service parveny lands may be liable.

Commencement of Ordinance.

This Ordinance shall take effect from and after the passing thereof.

25th August, 1852.

Digitized by Google

No. 5 of 1852.

To introduce into this Colony the Law of England in certain cases, and to restrict the operation of the Kandyan Law.

WHEREAS it is expedient that the law of England should be observed as the law of this colony, in certain respects, and that the laws of the Kandyan provinces should be assimilated as far as may be to the laws of the Maritime provinces; it is enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1 The law to be hereafter administered in this colony in respect of all contracts or questions arising within the same relating to ships and to the property therein, and to the owners thereof, the behaviour of the master and mariners, and their respective rights, duties, and liabilities, relating to the carriage of passengers and goods by ships, to stoppage *in transitu*, to freight, demurrage, insurance, salvage, average, collision between ships, to bills of lading, and generally to all maritime matters, shall be the same in respect of the said matters as would be administered in England in the like case at the corresponding period, if the contract had been entered into or if the act in respect of which any such question shall have arisen had been done in England, unless in any case other provision is or shall be made by any Ordinance now in force in this colony or hereafter to be enacted. Law of England to be observed in maritime matters;

2 The law to be hereafter administered in this colony in respect of all contracts and questions arising within the same upon or relating to bills of exchange, promissory notes, and cheques, and in respect of all matters connected with any such instruments, shall be the same in respect of the said matters as would be administered in England in the like case at the corresponding period, if the contract had been entered into or if the act in respect of which any such question shall have arisen had been done in England, unless in any case other provision is or shall be made by any Ordinance now in force in this colony or hereafter to be enacted. and in respect of bills of exchange, &c.

3 Provided that no person shall be prevented from recovering on any contract or engagement any amount of interest expressly reserved thereby, or from recovering interest at the rate of nine per cent. per annum on any contract or engagement, or in any case in which interest is payable by law and no different rate of interest has been specially agreed upon between the parties, but the amount recoverable on account of interest or arrears of interest shall in no case exceed the principal. Proviso in regard to interest.

4 Provided further, that nothing in the preceding sections contained shall alter or affect the law in regard to any question arising for adjudication within this colony upon a contract made abroad, which question shall be determined as if this Ordinance had not been enacted. Proviso in regard to contracts made abroad.

5 Where there is no Kandyan law or custom having the force of law applicable to the decision of any matter or question arising for adjudication within the Kandyan If the Kandyan law is silent, the law of the

Digitized by Google

Law of England, Introduction, &c.

Maritime provinces to govern.

provinces, for the decision of which other provision is not herein specially made, the court shall in any such case have recourse to the law as to the like matter or question in force within the Maritime provinces, which is hereby declared to be the law for the determination of such matter or question.

6 Repealed by No. 2 of 1889.

The criminal law of the Maritime provinces to extend to the Kandyan provinces.

7 The law administered within the Maritime provinces upon the trial and conviction of any person for any crime or offence committed within such provinces is hereby declared to extend and shall be applied to the like crimes and offences committed within the Kandyan provinces, unless by any law now in force in this colony or in any part thereof, or hereafter to be enacted, other provision has been or shall be made in that behalf.

The succession *ab intestato* to the property of Europeans in the Kandyan provinces to be the same as in the Maritime provinces.

8* The inheritance and succession to the real property situated within the Kandyan provinces of persons commonly known as Europeans, and of their descendants, and of persons commonly known as Burghers, who may die possessed of or entitled to any such property, and without disposing of the same by will, and the inheritance and succession to the personal property of such persons who at the time of their death shall be domiciled within the Kandyan provinces, and who may die possessed of or entitled to any such property, and without disposing of the same by will, shall be regulated and determined in such manner and according to such laws and usages as would have been the case had such real property been situated, or had the deceased been domiciled at the time of his death, within the Maritime provinces, anything contained in the sixth section of the Ordinance No. 21 of 1844, entitled "An Ordinance to make better provision for the disposal of Landed Property," to the contrary notwithstanding.

Marriages of Europeans not valid in the Maritime provinces to be invalid in the Kandyan provinces.

9 No marriage contracted between persons commonly known as Europeans or their descendants, or persons commonly known as Burghers, or between any such persons and any Singhalese (whether of the Maritime or Kandyan provinces), or any Asiatic within the Kandyan provinces, shall be valid, unless such marriage would have been valid if contracted within the Maritime provinces.

The Mahomedan code in force in the Maritime provinces extended to Mahomedans in the Kandyan provinces.

10 The code of Mahomedan laws, entitled "Special Laws concerning Maurs or Mahomedans," promulgated on the 5th day of August, 1806, and ordered to be observed throughout the whole of the province of Colombo, shall extend and be applied to the like cases, matters, and things between Mahomedans residing within the Kandyan provinces and in other parts of this colony, unless in any case other provision is or shall be made by any Ordinance now in force in this colony or hereafter to be enacted.

Ordinance when to take effect.

11 This Ordinance shall come into operation on the First day of July in the year of our Lord One thousand Eight hundred and Fifty-three.

8th September, 1852.

* Repealed so far as inconsistent with No. 15 of 1876.

Digitized by Google

No. 17 of 1852.

To make further provision touching the Execution of certain Deeds and Instruments.

(*See under No. 7 of 1840, page 112.*)

No. 3 of 1853.

To dispense with the issuing of Warrants under the Public Seal to Persons appointed to act temporarily in certain Public Offices.

Preamble.

WHEREAS by certain laws in force within this colony it is enacted that persons holding certain public offices shall be appointed thereto by letters patent, or commission, or warrant issued by the Governor under the public seal of the island, or by warrant under the hand and seal of the Governor, and it is inconvenient to require the issuing of such letters patent, commissions, or warrants on occasion of the appointment of persons to act temporarily in any such office: It is therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, that from and after the passing of this Ordinance, whenever it shall be deemed advisable to appoint any person to act as district judge, commissioner of a court of requests, police magistrate, coroner, deputy coroner, superintendent of police, or justice of the peace, during the sickness, or absence, or suspension from office, or upon the death of the person permanently appointed to any such office, the notification in the *Gazette* of this colony by the Governor's command, under the hand of the Colonial Secretary or Assistant Colonial Secretary, of the appointment of any person to act in any such office, shall be and be deemed to be a sufficient warrant and authority to such person to enter upon and to perform all the duties of such office, without any other appointment, whether by letters patent, or by commission, or by warrant issued by the Governor under the public seal, or by warrant under the hand and seal of the Governor, as the case may be, anything contained in the Charter bearing date at Westminster the 18th February, 1833, or in the Ordinance No. 6 of 1843,* entitled "An Ordinance for the creation of Justices of the Peace," or in the Ordinance No. 8 of 1843,* entitled "An Ordinance to provide for the better holding of Inquests touching sudden and violent deaths," or in the Ordinance No. 10 of 1843,* entitled "An Ordinance for the establishment of courts of inferior civil jurisdiction to be called Courts of Requests," or in the Ordinance No. 17 of 1844,* entitled "An Ordinance for establishing an efficient Police in certain towns, &c.," or in any other Ordinance to the contrary notwithstanding.

Acting appointments as district judge, &c., to be made by notification in the *Gazette*.

31st August, 1853.

---

* All repealed.

Digitized by Google

No. 7 of 1853.

For regulating the due Collection, Administration, and Distribution of Insolvent Estates.

(As amended by No. 24 of 1884. See No. 3 of 1890.)

Preamble.

WHEREAS it is expedient to make provision for the due collection, administration, and distribution of the estates of persons within this colony who may become insolvent, for the prevention of fraud affecting the same, and for the relief of such persons as by misfortune, and without having been guilty of fraud or dishonesty, may become insolvent:

Repeal of Ordinance No. 6 of 1835.

1 The Ordinance No. 6 of 1835, entitled "Ordinance to amend and consolidate the laws now in force in the settlements relating to Bankruptcy, the relief of insolvent debtors, and the privilege of *cessio bonorum*," is repealed.

Commencement of the Ordinance.

Proviso.

2 This Ordinance shall commence and take effect from and after the first day of July next. Provided that nothing in this Ordinance contained shall render invalid any proceedings which may have been taken or commenced under the said Ordinance No. 6 of 1835, or lessen or affect any right, title, claim, demand, or remedy which any person now has or hereafter may have upon or against any bankrupt, against whom any commission of bankruptcy shall have been issued, or against any person who may or shall have taken proceedings for a composition with his creditors, or against any insolvent prisoner; and all proceedings commenced under the said Ordinance shall and may be continued and prosecuted as if this Ordinance had not been passed.

Cessio bonorum abolished.

3 It shall not be lawful for any person to obtain from any court within this colony, or for any such court to grant to any person, the benefit or relief of cession of goods and property commonly called the *cessio bonorum*, as heretofore known to and allowed by the Roman-Dutch law in force within this colony: Provided that nothing herein contained shall be deemed or taken to affect in any way the estate or condition of any person to whom before the commencement of this Ordinance the said benefit or relief shall have been duly granted, which estate shall be administered, and which condition shall be judged of, as if this Ordinance had not been enacted.

Proviso.

Judges may make rules.

4 The judges of the Supreme Court may from time to time make such rules and orders as they may think fit for the better carrying of this Ordinance into effect, and generally for regulating the practice of the district court and the forms of proceedings under this Ordinance in all insolvency matters not provided for in this Ordinance: Provided that such rules and orders shall not be inconsistent with or repugnant to the provisions of this Ordinance, and that no such rules or orders shall be of any force or effect until they shall

Proviso.

Digitized by Google

have been transmitted to the Governor and confirmed in the manner provided by the Ordinance No. 8 of 1846,* entitled "For rendering the operation of rules of court contingent on their enactment by the Legislature."

District Courts to be auxiliary to each other for proof of debts and taking examinations.

5 The several district courts throughout this colony shall be courts for the administration of insolvent estates under this Ordinance, and shall be auxiliary to each other for proof of debts and for the examination of persons or witnesses in all matters under this Ordinance, or for any or either of such purposes: Provided that all such examinations shall be taken down in writing, and shall be transmitted to the court in which the petition for sequestration is being prosecuted, and shall be annexed to and form part of the proceedings in the matter to which the same shall relate, and that no such examination shall be taken without the request in writing of the judge of the district court before whom the matter is being prosecuted. Proviso.

Appeals to Supreme Court.

6 All decisions and orders of the district courts made under the authority of this Ordinance shall be subject to an appeal to the Supreme Court; and every such appeal shall be brought on and prosecuted in such manner and shall be subject to such regulations as now exist or shall be hereafter made by any rule or order of the Supreme Court.

And with respect to acts of insolvency in general:

Acts of insolvency.

7 If any person residing in this colony, or having any property, real or personal, therein, shall depart therefrom, or being out of this colony shall remain abroad, or shall depart from his dwelling house, or otherwise absent himself, or begin to keep his house, or suffer himself to be arrested, or taken in execution for any debt not due, or yield himself to prison, or procure himself to be arrested or taken in execution, or his goods, money, lands, or other property to be attached, sequestered, or taken in execution, or make or cause to be made, either in this colony or elsewhere, any fraudulent grant, conveyance, or mortgage of any of his lands or goods, or make or cause to be made any fraudulent gift, delivery, or transfer of any of his goods or other property, every such person doing, suffering, procuring, executing, permitting, making, or causing to be made any of the acts, deeds, or matters aforesaid, with intent to defeat or delay his creditors, shall be deemed to have thereby committed an act of insolvency.

Conveyance of all a person's property to trustees not an act of insolvency, unless petition for sequestration filed within three months.

8 If any person shall execute any conveyance or assignment by deed of all his property to a trustee or trustees for the benefit of all the creditors of such person, the execution of such deed shall not be deemed an act of insolvency, unless a petition for sequestration of the estate of such person be filed within three months from the execution thereof: Provided such deed shall be executed by every such trustee within fifteen days after the execution thereof by such first-mentioned person, and notice thereof be given within one

* Repealed by No. 1 of 1889.

Digitized by Google

month after the execution thereof by such first-mentioned person in the *Government Gazette* and in some newspaper published in Colombo; and such notice shall contain the date and execution of such deed, and the name and place of abode of every such trustee.

Lying in prison 21 days, and escaping out of prison, acts of insolvency.

9 If any person having been arrested or committed to prison for debt or on any attachment for non-payment of money shall, upon such or any other arrest or commitment for debt or non-payment of money, or upon any detention for debt, lie in prison for twenty-one days, or having been arrested or committed to prison for any other cause shall lie in prison for twenty-one days after any writ of execution issued against him and not discharged, every such person shall thereby be deemed to have committed an act of insolvency; or if any such person having been arrested, committed, or detained for debt shall escape out of prison or custody, every such person shall be deemed to have thereby committed an act of insolvency from the time of such arrest, commitment, or detention.

Filing declaration of insolvency an act of insolvency.

10 If any person residing in this colony shall file in the district court of the district in which he shall have resided or carried on business for six months next immediately preceding a declaration in writing in the form A in the schedule to this Ordinance annexed, signed by such person and attested by a proctor of such court, or some other witness, that he is unable to meet his engagements, every such person shall be deemed thereby to have committed an act of insolvency at the time of filing such declaration, provided a petition for sequestration of his estate shall be filed by or against such person within two months from the filing of such declaration.

Compounding with petitioning creditor an act of insolvency.

11 If any person, after the filing of any petition for sequestration of his estate, shall pay money to the petitioning creditor, or give or deliver to such petitioning creditor any satisfaction or security for his debt or any part thereof, whereby such petitioning creditor may receive more in the pound in respect of his debt than the other creditors, such payment, gift, delivery, satisfaction, or security shall be an act of insolvency; and if adjudication that such estate be sequestered shall have been made upon such petition, the court may either declare such adjudication to be valid, and direct the same to be proceeded in, or may order it to be annulled, and a petition or new petition for sequestration may be filed, and such petition or new petition may be supported either by proof of such last-mentioned or any other act of insolvency.

Defendant not paying, securing, or compounding for a judgment debt within 30 days after notice an act of insolvency.

12. If any plaintiff shall recover judgment in any action for the recovery of any debt or money demand in any court in this colony against any person residing within the same, and shall be in a situation to sue out execution upon such judgment, and there be nothing due from such plaintiff by way of set off against such judgment, and the defendant shall not

Digitized by Google

within thirty days after notice in writing personally served upon such defendant requiring immediate payment of such judgment debt pay, secure, or compound for the same to the satisfaction of such plaintiff, every such defendant shall be deemed to have committed an act of insolvency on the thirty-first day after service of such notice : Provided that if such execution shall in the meantime be suspended or restrained by any rule, order, or proceeding of any court having jurisdiction in that behalf, no further proceeding shall be had on such notice, but it shall be lawful nevertheless for such plaintiff, when he shall again be in a situation to sue out execution on such judgment, to proceed again by notice in manner aforesaid: Provided also that if the defendant appeals against such judgment no such notice shall be given, or if given no further proceeding shall be had thereon, pending such appeal.

Proviso.

13 If any decree or order shall be pronounced in any cause depending in any court, or any order shall be made in any matter of insolvency against any person residing in this island, ordering such person to pay any sum of money, and such person shall disobey such decree or order, the same having been personally served upon him, and no appeal against the same shall be pending, the person entitled to receive such sum under such decree or order, or interested in enforcing the payment thereof pursuant thereto, may make an *ex parte* application to the court by which the same shall have been pronounced to fix a peremptory day for the payment of such money, which shall accordingly be fixed by an order for that purpose ; and if such debtor, being personally served with such last-mentioned order thirty days before the day therein appointed for payment of such money, shall neglect to pay the same, every such debtor shall be deemed to have committed an act of insolvency on the thirty-first day after the service of such order.

Person disobeying order of court for payment of money after service of peremptory order an act of insolvency.

14 If any accredited agent of any body corporate or public company shall have had notice of any act of insolvency, such body corporate or company shall be deemed to have had such notice.

Notice of acts of insolvency to agents of corporate bodies, &c.

15 No person shall be liable to be adjudged insolvent by reason of any act of insolvency committed more than twelve months prior to the filing of any petition for sequestration of his estate; and no adjudication of insolvency shall be deemed invalid by reason of any act of insolvency prior to the debt of the petitioning creditor, provided there be a sufficient act of insolvency subsequent to such debt.

No person liable upon an act of insolvency committed more than 12 months before petition.

And with respect to the proceedings before the estate of any person is adjudged insolvent :

16 Proceedings to obtain the sequestration of the estate of any person as insolvent shall be by petition to the district court of the district in which the debtor shall have resided or carried on business for six months next immediately preceding the time of filing such petition,

Proceedings to originate by petition.

Digitized by Google

except where otherwise in this Ordinance specially provided (such petition if presented by a creditor, being in the form B in the schedule annexed to this Ordinance, and the truth thereof verified by the affidavit of the petitioner in the form C in such schedule; and if presented by a person against himself under the twentieth section of this Ordinance, being in the form D specified in such schedule, and the truth thereof and of the matters required to be stated in the list annexed to such petition verified by the affidavit of such person in the form C specified in such schedule); and every such petition shall be filed of record and prosecuted as directed by this Ordinance; and from and after the filing of such petition the said court shall have full power and authority to take such order and direction with the body of the insolvent as mentioned in this Ordinance, as also with all his property, real and personal, which he shall have in his own right before he became insolvent, as also with all such interest in any such property as such insolvent may lawfully part with, and with all his money, fees, annuities, goods, wares, merchandise, and debts, wheresoever they may be found or known, and to make or order sale thereof in manner herein mentioned, or otherwise order the same for satisfaction and payment of the creditors of such insolvent.

Supreme Court may direct petition to be prosecuted in any district, &c.

17 Provided that the Supreme Court or any judge thereof shall have power, whenever such court or judge may deem it expedient, to order any petition against or by any person for the sequestration of his estate, to be prosecuted in any district court with or without reference to the district in which such person resided or carried on business, and whether or not such person has resided or carried on his business for six months preceding the filing of such petition, and whether or not such person has carried on his business for that time in any particular district; or to consolidate the proceedings or any part thereof under two or more petitions for the sequestration of such estate or to transfer any petition for such sequestration and the proceedings thereunder, and the prosecution or the further prosecution thereof, from any one district court to any other district court, and the court to which any such transfer shall be made shall have and exercise full jurisdiction therein; and any such order by the Supreme Court, or by any judge thereof, may be in such of the forms E, F, or G in the schedule to this Ordinance annexed as may be adapted to the case, or to the like effect.

Petitioning creditor's debt:

18 The amount of the debt of any creditor petitioning for sequestration of the estate of any person as insolvent shall be as follows; that is to say, the single debt of such creditor, or of two or more persons being partners, so petitioning shall amount to fifty pounds or upwards; and the debt of two creditors so petitioning shall amount to seventy pounds or upwards; and the debt of three or more creditors so petitioning shall amount to one hundred

Digitized by Google

pounds or upwards; and every person who has given credit to any person upon valuable consideration for any sum payable at a certain time, which time shall not have arrived when such person committed an act of insolvency, may so petition or join in petitioning, whether he shall have had any security in writing for such sum or not. though payable at a future time, and security given.

19 A petition for sequestration as insolvent of the estate of any person indebted in the amount aforesaid to any co-partnership, duly authorized to sue and be sued in the name of a public officer of such co-partnership, may be filed by such public officer as the nominal petitioner for and on behalf of such co-partnership. Petition by public officer of certain co-partnership.

20 Any person may petition for the sequestration as insolvent of his own estate; and there shall be annexed to such petition a list containing a full and true account of the petitioner's debts, and the claims against him, with the names of his creditors and claimants and the dates of contracting the debts and claims severally, as near as such dates can be stated, the nature of the debts and claims and securities (if any) given for the same, and whether the same are disputed; and also a true account of the nature and amount of the petitioner's property, and an inventory of the same, and of the debts owing to him, with their dates, as nearly as such dates can be stated, and the names of his debtors, and the nature of the securities (if any) which he has for such debts: Person may petition against himself.

Provided that unless such person shall forthwith after the filing of his petition, and before adjudication of insolvency thereunder, make it appear to the satisfaction of the court that his available estate is sufficient to pay his creditors at least five shillings in the pound, clear of all charges (to be estimated by the court) of prosecuting the petition, such petition shall be dismissed, and no further petition shall be filed by such person in the same district without the leave of the court first obtained for that purpose; and the adjudication on any further petition shall be subject to the like condition as aforesaid as to the available estate of the petitioner: Proviso.

Provided, however, that it shall be lawful for any person, whatever the amount of his available estate, who shall be in actual custody within the walls of any prison in this colony, upon any writ of execution against his person, or other like process, for or by reason of any debt, damages, or costs, at any time after twenty-one days from the commencement of the actual custody of such prisoner, to file a declaration of insolvency, and to petition for the sequestration as an insolvent of his own estate. So also may an insolvent prisoner.

21 If the petitioning creditor in any petition for sequestration of his debtor's estate as insolvent shall not proceed and obtain adjudication within three days after his petition shall have been filed, or within such extended time as shall be allowed by the court, the court may at any time within fourteen days then next following, upon the application of any other creditor to the amount required to constitute a petitioning creditor, proceed to adjudicate on such petition, If adjudication be not obtained within three days after petition, any other creditor may proceed on it.

Digitized by Google

upon the proof of the debt of such second-mentioned creditor and of the other requisites to support such petition (except the debt of the petitioning creditor); but if neither the petitioner nor any other creditor shall within such fourteen days or within such extended time as may be granted by the court for that purpose, apply to the court to adjudicate upon such petition, no further proceeding shall be taken thereon.

Petitions may be presented against one or more partners in a firm; and petitions against two or more may be dismissed as to one without affecting the others.

22 Any creditor whose debt is sufficient to entitle him to petition for the sequestration as insolvent of the estate of all the partners of any firm may petition for such sequestration against one or more partners of such firm, and every such petition shall be valid, although it does not include all the partners of the firm; and in every petition for sequestration against two or more persons the court may dismiss the same as to one or more of such persons, and the validity of such petition shall not be thereby affected as to any person as to whom such petition is not ordered to be dismissed, nor shall any such person's certificate be thereby affected.

If one member of a firm be insolvent, a petition against the others shall be filed in the same court.

23 After a petition for sequestration filed against or by one or more member or members of a firm, any petition for sequestration against or by any other member of such firm shall be filed and prosecuted in the court in which the first petition was prosecuted; and immediately after the adjudication under such other petition all the estate, real and personal, of any such insolvent shall vest in the assignee, if any, under the first petition; and thereafter all separate proceedings under such other petition shall be stayed, and such petition shall, without affecting the validity of the first petition, be annexed to and form part of the same: Provided that the Supreme Court, or any judge thereof, may direct that such other petition shall be filed and prosecuted in any other district court, or be proceeded in, either separately or in conjunction with the first petition.

Proviso.

After petition filed, if the insolvent be about to quit this colony, or to remove or conceal his goods, he may be arrested and his goods seized.

24 Whenever any petition for sequestration as insolvent of the estate of any person shall have been filed against any person, and it shall be proved to the satisfaction of the court in which such petition has been filed that there is probable cause for believing that such person is about to quit this colony, or to remove or conceal any of his goods with intent to defraud his creditors, unless he be forthwith apprehended, it shall be lawful for the court to issue a warrant, directed to the fiscal, or to such person as the court shall think fit, whereby such fiscal or other person shall have authority to arrest the person against whom such petition shall have been filed, and also to seize his books, papers, monies, securities for monies, goods, and effects, wheresoever he or they may be found, and him and them safely keep until the expiration of the time allowed for adjudication on such petition, or until such person shall be adjudged insolvent under such petition, and be thereon dealt with according to this Ordinance: Provided that any person arrested upon any such warrant, or any person whose books, papers, monies, securities for

Person so arrested may

Digitized by Google

monies, goods, or effects have been seized under any such warrant, may apply at any time after such arrest or seizure to the court for an order or rule on the petitioning creditor to show cause why the person arrested should not be discharged out of custody, or why his books, papers, monies, securities for monies, goods, and effects should not be delivered up to him; and it shall be lawful for such court to make absolute or discharge such order or rule.

apply to the court for his discharge.

25 The court, before adjudication, may summon before it any person whom such court shall believe capable of giving any information concerning any act of insolvency committed by the person against whom any petition for the sequestration of his estate as insolvent has been filed, and may require any person so summoned to produce any books, papers, deeds, writings, and other documents in his custody, possession, or power which may appear to the court to be necessary to establish such act of insolvency; and it shall be lawful for the court to examine any such person upon oath, by word of mouth, or interrogatories in writing, concerning such act of insolvency; and such court, before or at the time of adjudication, may examine the person by or against whom any such petition has been presented, or any other person, as to the probable value of the property of such first-mentioned person available for the payment of his debts.

Court, before adjudication, may summon witnesses to prove act of insolvency.

And with respect to the adjudication of the estate of any person as insolvent, and the proceedings for securing the property and surrender of the insolvent:

26 The district court, under a petition filed by a creditor shall, upon proof of the petitioning creditor's debt and of the act of insolvency of the person against whom such petition is filed, adjudge such person insolvent; or if in case of the failure of the petitioning creditor to proceed and obtain adjudication within three days after his petition shall have been filed, or within such extended time as may be allowed by the court, another creditor shall apply for adjudication upon such petition, then upon such application, and proof of such creditor's debt, and of the act of insolvency of the person against whom such petition is filed, the court shall adjudge such person insolvent; and under a petition filed by any person against himself the court, upon the application of such person, and upon proof of the filing a declaration of insolvency, and of the sufficiency of his available estate to the extent required by this Ordinance, or upon proof of the filing of such declaration of insolvency, and that such person has been in actual custody within the walls of a prison for debt for more than twenty-one days, shall adjudge such person insolvent.

Adjudication, and upon what proof.

27 Forthwith, after any person shall be adjudged insolvent, the district court shall issue to the fiscal an order (in the form H in the schedule annexed to this Ordinance) placing the estate of the insolvent under sequestration in his hands, and such fiscal shall enter and lay an attachment on

Attachment upon the estate, and how to be made.

Digitized by Google

the estate, under inventory thereof; and when the same shall be sequestered upon the petition of any creditor the said fiscal shall be accompanied by the petitioning creditor, or some one authorized by him, on behalf of himself and the other creditors of the said estate; and when the said estate shall be sequestered upon the petition of any insolvent against himself it shall be lawful for any of the creditors, or for the agent of any of the creditors, of the insolvent to accompany the fiscal and to be present with him while making out the inventory aforesaid.

Attachment of personal property how to be made, and as to penalty for defeating the same.

28 When any personal property belonging to any insolvent is attached as aforesaid in virtue of any order for the sequestration thereof, the fiscal making such attachment shall leave with the person in whose possession any such property is attached a copy of the said inventory, having subjoined thereto a notice in the English language, and also, if he does not understand English, in the language spoken by such person, that the property therein specified has been attached by the said fiscal, by virtue of an order of the court for the sequestration thereof; and any person who, knowing the same to have been so attached, shall dispose of, remove, conceal, or receive the same, or any part thereof, with intent to defeat the said attachment, shall be liable on conviction of such offence to be transported for any period not exceeding seven years, or to be imprisoned, with or without hard labour, for any period not exceeding five years: Provided that it shall be lawful for such fiscal to secure on the premises, by sealing up in any room or repository, any articles which in the discharge of his duty it shall seem to him expedient so to secure, causing no unnecessary hindrance or inconvenience to any party by so doing, or to leave some person on the premises in charge thereof; and the said fiscal shall forthwith report his execution of the said attachment to the said court, and the court may give such directions for the safe custody of the said property as shall seem fit.

If petitioning creditor's debt insufficient, court may proceed upon the application of any other creditor.

29 If, after adjudication of insolvency, the debt of the petitioning creditor be found by the court to be insufficient to support such adjudication, it shall be lawful for the court, upon the application of any other creditor having proved any debt sufficient to support an adjudication, to order the petition for sequestration to be proceeded in, and it shall by such order be deemed valid, which order may be in the form I in the schedule to this Ordinance annexed, or to the like effect.

Insolvent to have notice of adjudication, and to be allowed a certain time to show cause against it before advertisement.

30 Before notice of any adjudication of insolvency shall be given in the *Gazette* of this colony, and at or before the time of putting in execution any order of sequestration which shall have been granted upon such adjudication, a duplicate of such adjudication shall be served on the person adjudged insolvent, personally or by leaving the same at the usual or last known place of abode or place of business of such person; and such person shall be allowed seven days, or such extended time not exceeding fourteen days in the whole as the court shall think fit, from the service of such duplicate, to show

Digitized by Google

cause to the court against the validity of such adjudication; and if such person shall within such time show to the satisfaction of the court that the petitioning creditor's debt, and the act of insolvency upon which such adjudication has been grounded, or either of such matters, are insufficient to support such adjudication, and upon such showing no other creditor's debt and act of insolvency sufficient to support such adjudication, or such of the said last-mentioned matters as shall be requisite to support such adjudication, in lieu of the petitioning creditor's debt and act of insolvency, or either of such matters which shall be deemed insufficient in that behalf, as the case may be, shall be proved to the satisfaction of the court, the court shall thereupon order (in the form K in the schedule to this Ordinance annexed, or to the like effect) such adjudication to be annulled, and the same shall by such order be annulled accordingly; but if at the expiration of the said time no cause shall have been shown to the satisfaction of the court for the annulling of such adjudication, the court shall forthwith, after the expiration of such time, cause notice of such adjudication to be given in the said *Gazette*, and, if the court considers it expedient, in the *London Gazette* and in the *Gazettes* published at each of the presidencies of India, and shall thereby appoint two public sittings of the court for the insolvent to surrender and conform, the last of which sittings shall be on a day not less than thirty days and not exceeding sixty days from such advertisement in the *Gazette* of this colony, and shall be the day limited for such surrender; and copies and translations of such advertisement shall also be affixed on the wall of the district court and of the nearest cutcherry: Provided that the court shall have power from time to time to enlarge the time for the insolvent surrendering himself for such time as the court shall think fit, so as every such order be made six days at least before the day on which such insolvent was to surrender himself; and also from time to time to adjourn either of the said sittings if the court shall deem it necessary to do so: Provided also that if any person so adjudged insolvent shall, before the expiration of the time allowed for showing cause, surrender himself and give his consent, testified in writing under his hand, to such adjudication being advertised, the court after such consent so given shall forthwith cause the notice of adjudication to be advertised, and appoint the sittings for the insolvent to surrender and conform.

Proviso.

Adjudication may, with insolvent's consent, be advertised before the time for showing cause.

Insolvent to deliver up his books of accounts to the court upon oath;

31 Forthwith after the insertion of the notice of adjudication in the *Gazette* of this colony, or, if the insolvent before the expiration of the time allowed for showing cause against the adjudication surrender himself and give consent to such insertion, forthwith after such surrender, the insolvent shall (if thereto required by the court) deliver up to the court upon oath all books of account, papers, and writings relating to his estate in his custody or power, and discover such as are in the custody or power of any other person; and every insolvent not in prison or custody shall at all times after

to attend assignees;

Digitized by Google

such surrender attend the assignees, upon every reasonable notice in writing for that purpose given by them to him or left at his usual or last known place of abode, and shall assist such assignees in making out the accounts of his estate; and such insolvent after he shall have surrendered may, at all seasonable times before the expiration of such time as shall be allowed to him to finish his examination, inspect his books, papers, and writings in the presence of his assignees, or any person appointed by them, and bring with him each time any two persons to assist him; and every such insolvent after he shall have obtained his certificate shall, upon demand in writing given to him or left at his usual or last known place of abode, attend the assignees to settle any accounts between his estate and any debtor to or creditor thereof, or attend any court to give evidence touching the same, or do any act necessary for getting in or protecting the said estate, for which attendance he shall be paid by the assignees out of his estate such sum, not exceeding ten shillings per day, as they shall deem reasonable.

to be at liberty to inspect books, &c.;

after allowance of certificate to attend assignees in settling accounts.

Allowance for attendance.

Search warrants in what cases.

32 In all cases where it shall be made to appear to the satisfaction of the district court that there is reason to suspect and believe that any property of any insolvent is concealed in any house or other place not belonging to such insolvent, the court may grant a search warrant to the fiscal or other person appointed by the court, and it shall be lawful for such fiscal or other person to execute such warrant according to the tenor thereof; and such fiscal or other person shall be entitled to the same protection as is allowed by law in execution of a search warrant for property reputed to be stolen, and every such search warrant shall be in the form L in the schedule to this Ordinance annexed, or to the like effect.

No action against persons for acting under warrant of the court, without demand of copy of warrant.

33 No action shall be brought against any fiscal or other person appointed by the court for anything done in obedience to any warrant of the court, unless demand of the perusal and copy of such warrant hath been made or left at the usual place of abode of such fiscal or other person by the party intending to bring such action, or by his proctor or agent, in writing, signed by the party demanding the same, and unless the same hath been refused or neglected for six days after such demand; and if after such demand, and compliance therewith, any action be brought against such fiscal or person so appointed, without making the petitioning creditor defendant, if living, the court at the trial of such action, on the production and proof of such warrant, shall give judgment for the defendant, notwithstanding any defect of jurisdiction in the court by which such warrant shall have been granted; and if such action be brought against the petitioning creditor and the fiscal or person so appointed, the court shall, on proof of such warrant, give judgment for such fiscal or person so appointed, notwithstanding any such defect of jurisdiction; and if the judgment shall be given against the petitioning creditor, the plaintiff shall recover his costs against him, to be taxed so as to include such costs as

Digitized by Google

the plaintiff is liable to pay to the fiscal or person so appointed as aforesaid.

34 In any such action brought against the petitioning creditor, either alone or jointly with any fiscal or other person so appointed by the court, for anything done in obedience to the warrant of the court, proof by the plaintiff in such action that the defendant or defendants or any of them is or are petitioning creditor or creditors shall be sufficient for the purpose of making such defendant or defendants liable in the same manner and to the same extent as if the act complained of in such action had been done or committed by such defendant or defendants.

Proof in such actions that defendant is petitioning creditor sufficient to render him liable.

35 It shall be lawful for any fiscal, acting under warrant of the court, to break open any house, chamber, shop, warehouse, door, trunk, or chest of any insolvent where such insolvent or any of his property shall be reputed to be, and seize upon the body or property of such insolvent; and if the insolvent be in prison or in custody it shall be lawful for the fiscal to seize any property of the insolvent (his necessary wearing apparel only excepted) in the custody or possession of such insolvent or of any other person, in any prison or place where such insolvent is in custody.

Fiscal may break open the insolvent's doors, &c., and seize upon his body or property.

36* If the insolvent be not in prison or custody at the date of the adjudication, he shall be free from arrest or imprisonment by any creditor in coming to surrender, and after such surrender during the time by this Ordinance limited for such surrender, and for such further time as shall be allowed him for finishing his examination, and for such time after finishing his examination until his certificate be allowed, as the court shall from time to time by endorsement upon the summons of such insolvent, or by writing under the hand of the judge of such court, think fit to appoint; and whenever any insolvent is in prison or in custody under any process, attachment, execution, commitment, or sentence, the court may by warrant directed to the person in whose custody he is confined cause him to be brought before it at any sitting, either public or private, and if he be desirous to surrender, he shall be so brought up, and the expense thereof shall be paid out of his estate, and such person shall be indemnified by the warrant of the court for bringing up such insolvent; and where any person who has been adjudged insolvent, and has surrendered and obtained his protection from arrest, is in prison or in custody for debt at the time of his obtaining such protection, the court may, except in the cases next hereinafter mentioned, order his immediate release, either absolutely or upon such conditions as it shall think fit: Provided that the court shall not order such release where it shall appear by any judgment, order, commitment, or sentence under which the insolvent is in prison or in custody, or by the record or entry of any such judgment, order, commitment, or sentence, and the pleadings

Insolvent not in custody to be free from arrest in coming to surrender, &c.

If in custody, he may be brought up to be examined, or to surrender, &c.; and if for debt, the court may, except in certain cases, order his release.

Proviso.

* Applies to Crown debtors, section 6, 24 of 1884.

Digitized by Google

or proceedings previously thereto, that he is in prison or in custody for any debt contracted by fraud or breach of trust, or by reason of any prosecution against him whereby he had been convicted of any offence, or for any debt contracted by reason of any judgment in any proceeding for breach of the revenue laws, or in any action for breach of promise of marriage, seduction, criminal conversation, libel, slander, assault, battery, malicious arrest, malicious trespass, or maliciously filing or prosecuting a petition for sequestration of the estate of any person as insolvent, *unless it shall appear to the satisfaction of the court that the insolvent shall at the time of this Ordinance coming into operation, or at any time thereafter, have been in prison or custody under or by reason of any such judgment, order, commitment, or sentence as aforesaid for a period of or exceeding one year.* Provided also that such release shall in nowise affect any rights of the creditor at whose suit the insolvent may be in prison or in custody against the insolvent, except the right of detaining him in prison or in custody whilst protected from imprisonment by order of the court.

Court may order release of insolvent if in custody for debt contracted by fraud, &c., when detained for more than one year. [*§ 3, 24 of 1884*]

Proviso.

If arrested, to be discharged on producing protection.

37* If any insolvent shall be arrested for debt in coming to surrender, or shall after his surrender and while protected by order of the court be so arrested, he shall, on producing such protection to the officer who shall arrest him, and giving such officer a copy thereof, be immediately discharged ; and if any officer shall detain any such insolvent after he shall have shown such protection to him, except for so long as shall be necessary for obtaining a copy of the same, such officer shall forfeit to such insolvent, for his own use, the sum of five pounds for every day he shall detain such insolvent, to be recovered by action in any competent court in the name of such insolvent, with costs of suit.

Petitioning creditor to proceed at his own costs until choice of assignees.

38 The petitioning creditor shall, at his own cost, file and prosecute his petition until the choice of assignees by the creditors ; and the court shall at or after the sitting for such choice make order for the payment thereof out of the estate of the insolvent.

No objection to petition for sequestration, that the act of insolvency was concerted.

39 No petition for sequestration of the estate of any person as insolvent shall be dismissed, nor any adjudication thereon reversed, by reason only that the petition, or adjudication, or act of insolvency has been concerted or agreed upon between the insolvent, his proctor or agent, or any of them, and any creditor or other person.

Court may proceed notwithstanding death of insolvent.

40 If any person shall die after he has been adjudged insolvent, the court may proceed in the matter of such insolvency as if such insolvent were living.

Court may summon and examine insolvent.

41 The court may summon any insolvent before it, whether such insolvent shall have obtained his certificate or not ; and in case he shall not come at the time appointed by the court (having no lawful impediment made known to and

* Applies to Crown debtors, section 6, 24 of 1884.

Digitized by Google

allowed by the court at such time), it shall be lawful for the court, by warrant, to authorize and direct the fiscal, or any person the court shall think fit, to apprehend and arrest such insolvent and bring him before the court; and upon the appearance of such insolvent, or if such insolvent be present at any sitting of the court, it shall be lawful for the court to examine or to permit the examination by the creditors of such insolvent after he shall have made and signed a declaration in the form M in the schedule to this Ordinance annexed, either by word of mouth or on interrogatories in writing, touching all matters relating to his trade, dealings, or estate, or which may tend to disclose any secret grant, conveyance, or concealment of his lands, goods, money, or debts, and to reduce his answers into writing, which examination, so reduced into writing, the said insolvent shall sign.

42 It shall be lawful for the court to summon before it the wife of any insolvent, and to examine her, or to permit her examination by the creditors of such insolvent, after she shall have made and signed a declaration in the form M in the schedule to this Ordinance annexed, either by word of mouth or interrogatories in writing, for the finding out and discovery of the property of such insolvent concealed, kept, or disposed of by such wife in her own person or by her own act, or by any other person, and she shall incur such danger or penalty for not coming before the court, or for refusing to make and sign such declaration and to be examined, or to sign her examination, or for not fully answering to the satisfaction of the court, as is hereinafter provided.

Court may summon and examine the insolvent's wife.

43 If in any case it shall be proved to the satisfaction of the court that any insolvent is keeping out of the way and cannot be personally served with a summons, and that due pains have been taken to effect such personal service, or that there is probable cause for believing that he is about to quit this colony, or to remove or conceal any of his goods or effects, unless he be forthwith apprehended, it shall be lawful for such court, by warrant, to authorize and direct the fiscal, or any person it shall think fit, to apprehend and arrest such insolvent, and bring him before the court to be examined in like manner as if he appeared upon a summons.

If insolvent keep out of the way, or be about to quit this colony, &c., warrant.

44 After any person has been adjudged insolvent it shall be lawful for the district court to summon before it any person known or suspected to have any of the estate of the insolvent in his possession, or who is supposed to be indebted to the insolvent, or any person the court may believe capable of giving information concerning the person, trade, dealings, or estate of the insolvent, or concerning any act of insolvency committed by him, or any information material to the full disclosure of his dealings; and the court may require such person to produce any books, papers, deeds, writings, or other documents in his custody or power which may appear to the court necessary to the verification of the deposition of such person, or to the full disclosure of any of the matters which

Court may summon persons suspected of having insolvent's property, &c.,

Digitized by Google

and if they fail to attend, warrant.

the court is authorized to inquire into; and if such person so summoned as aforesaid shall not come before the court at the time appointed, having no lawful impediment (made known to the court at the time of its sitting, and allowed by it), it shall be lawful for the court by warrant to authorize and direct the fiscal, or other person therein named for that purpose, to apprehend and arrest such person and bring him before the court for examination.

Service of summons where person keeps out of the way.

45 Where it shall be shown by affidavit to the satisfaction of the court that any person to whom any such summons is directed as aforesaid is keeping out of the way and cannot be personally served therewith, and that due pains have been taken to effect such personal service, it shall be lawful for the court to order by endorsement upon the summons that the delivery of a copy of such summons to the wife or servant, or some adult inmate of the house or family of the person at his usual or last known place of abode or business, and explaining the purport thereof to such wife, servant, or inmate, shall be equivalent to personal service; and in every such case the service of such summons in pursuance of such order shall be and be deemed and taken to be of the same force and effect to all intents and purposes as if the party to whom such summons was directed had been personally served therewith.

Power to examine persons summoned or present at any sitting.

46 Upon the appearance of any person summoned or brought before the court upon any warrant as aforesaid, or if any person be present at any sitting of the court, it shall be lawful for the court to examine or to permit the examination by the creditors of every such person upon oath, either by word of mouth or by interrogatories in writing, concerning the person, trade, dealings, or estate of any insolvent, or concerning any act of insolvency by any insolvent committed, and to reduce into writing the answers of every such person; and such answers so reduced into writing such person examined is hereby required to sign.

Court may order payment of debts admitted to be due to the estate;

47 If any such person examined as last aforesaid shall, in and by his examination signed as aforesaid, and also in and by a separate writing in the form N in the schedule to this Ordinance annexed, admit that he is indebted to the insolvent in any sum of money upon the balance of accounts, it shall be lawful for the court, if it think fit, to order (in the form O in the schedule to this Ordinance annexed, or to the like effect) that such person shall forthwith, or at such time and in such manner as to the court may seem expedient, pay the amount so admitted, in full discharge thereof, to the assignees, together with the costs of and incident to the summons of such person, if the court think fit to award costs, or the court may, if it think fit, in the said form O, order the assignees to pay the costs of the person summoned out of the estate of the insolvent; and every such order shall have the effect of a judgment in the said court, and may be enforced accordingly: Provided always that no such order shall be made unless such party has been informed by the judge of

such order to have effect of judgment.

Proviso.

Digitized by Google

the effect of such admission before the same is signed as aforesaid: Provided also, that if part only of the sum actually due be so admitted, or if the court make an order for part only of the sum admitted, the residue may be recoverable in the same manner in all respects as if no such admission or order had been made.

Proviso.

48 The district court may order that for a period of three months from the date of any such order all post letters directed or addressed to any insolvent at the place of which he shall be described in the petition for sequestration of his estate as insolvent, shall be re-directed, re-addressed, sent, or delivered by the Postmaster-General of this colony, or the officers acting under him, to the assignees named in such order; and upon notice by transmission of a duplicate of any such order to the Postmaster-General, or the officers acting under him, by the assignees or other person named in such order, of the making of such order, it shall be lawful for the Postmaster-General, or such officers as aforesaid, to re-address, re-direct, send, or deliver all such post letters to the assignees named in such order accordingly; and the court may, upon any application to be made for that purpose, renew any such order for a like or for any other less period as often as may be necessary.

Court may order letters addressed to insolvent to be re-directed or delivered to assignees, &c.

And with respect to the power of the district court over certain descriptions of property:

49 If any insolvent, at the time he commits the act of insolvency, shall, by the consent and permission of the true owner thereof, have in his possession, order, or disposition any goods or effects whereof he was reputed owner, or whereof he had taken upon him the sale or disposition as owner, the court shall have power to order the same to be sold or disposed of for the benefit of the creditors of the insolvent: Provided that nothing herein contained shall invalidate or affect any transfer or assignment of any ship or vessel, or any share thereof, made as a security for any debt, either by way of mortgage or assignment, duly registered according to the provisions of an Act made in the Parliament holden in the eighth and ninth years of the reign of Her Majesty, entitled "An Act for the registering of British vessels," or any of the Acts therein mentioned.

Goods in the possession, order, or disposition of the insolvent to be deemed his property.

Proviso for assignments of vessels under 8 & 9 Vict., c. 89.

50 But if there shall be found among the insolvent's property at the time of its seizure any wares, goods, or merchandise consigned to him for the special purpose of being sold by him on commission, or intrusted in his hands for any specific purpose, and which evidently are the property of the consignor or person so intrusting, notice thereof shall be transmitted to the owners as soon as possible, in order that they may take the necessary measures to secure their property, and the same shall be carefully preserved, and shall be delivered over to the lawful owners.

Consigned goods, &c., to be given up to the owner.

51 If any person adjudged insolvent under this Ordinance shall (except upon the marriage of any of his children, or for some valuable consideration) have conveyed, assigned, or

Conveyances &c., by insolvent without valuable

Digitized by Google

consideration, void.

transferred to any of his children, or to any other person, any real or personal property whatsoever, or have delivered or made over to any such person any bills, bonds, notes, or other securities, or have transferred his debts to any other person, or into any other person's name, such first-mentioned person being at the time of making any such conveyance, assignment, transfer, or delivery insolvent, the court shall have power to order any such property to be sold and disposed of for the benefit of the creditors under the insolvency; and every such sale shall be valid against the insolvent and such children and persons, and against all persons claiming under him.

Seizure of goods for rent not to be available for more than one year's rent due: the landlord to prove for the residue.

52 No seizure or detention of the goods of any insolvent for rent made after an act of insolvency, and whether before or after the filing of the petition for sequestration of his estate, shall be available for more than one year's rent accrued prior to the day of the filing of such petition, but the landlord or person to whom the rent shall be due shall be allowed to come in as creditor for the overplus of the rent due, and for which the goods seized shall not be available.

Where insolvent is a trustee, the court may order conveyance or assignment to another trustee.

53 If any insolvent shall as trustee be seized, possessed of, or entitled to, either alone or jointly, any real or personal estate, or any interest secured upon or arising out of the same, or shall have standing in his name as trustee, either alone or jointly, any funds or annuities, or any of the stock of any public company in this colony, it shall be lawful for the court, on the petition of the person entitled in possession to the receipt of the rents, issues, and profits, dividends, interest, or produce thereof, on due notice given to all other persons (if any) interested therein, to order the assignees, and all persons whose act or consent thereto is necessary, to convey, assign, or transfer the said estate, interest, funds, or annuities to such person as the said court shall think fit, upon the same trusts as the said estate, interest, funds, or annuities were subject to before the insolvency, or such of them as shall be then subsisting and capable of taking effect, and also to receive and pay over the rents, issues, and profits, dividends, interest, or produce thereof as the said court shall direct.

Title to property sold not to be impeached unless insolvency disputed within a certain time.

54 No title to any real or personal estate sold under any insolvency shall be impeached by the insolvent, or any person claiming under him, in respect of any defect in the petition for sequestration, or in any of the proceedings under the same, unless the insolvent shall, within the time allowed by this Ordinance, have commenced proceedings to dispute, dismiss, or annul the petition or adjudication thereunder, and duly prosecuted the same.

The court, after adjudication, may order any agent of the insolvent to deliver over all monies, &c.

55 After the adjudication of insolvency in any case shall have been advertised in the *Gazette* of this colony, it shall be lawful for the court to order any treasurer or other officer, or any banker, attorney, proctor, or other agent of the insolvent to pay and deliver over to the assignees, to the credit of the estate of such insolvent, all monies or securities for

Digitized by Google

monies in his custody, possession, or power as such officer or agent, and which he is not by law entitled to retain against the insolvent or his assignees.

And with respect to transactions with the insolvent, and executions against his property up to the time of the filing of the petition for sequestration of his estate as insolvent, or within a limited time previously thereto:

56 All payments really and *bonâ fide* made by any insolvent, or by any person on his behalf, before the filing of a petition for sequestration of his estate as insolvent to any creditor of such insolvent, and all payments really and *bonâ fide* made to any insolvent before the filing of such petition, and all conveyances by any insolvent *bonâ fide* made and executed before the filing of such petition, and all contracts, dealings, and transactions by and with any insolvent really and *bonâ fide* made and entered into before the filing of such petition, and all executions and attachments against the lands of any insolvent *bonâ fide* executed by seizure, and all executions and attachments against the goods and effects of any insolvent *bonâ fide* executed and levied by seizure and sale before the date of the filing of such petition, shall be deemed to be valid notwithstanding any prior act of insolvency by such insolvent committed, provided the person so dealing with or paying to or being paid by such insolvent, or at whose suit or on whose account such execution or attachment shall have issued, had not at the time of such payment, conveyance, contract, dealing, or transaction, or at the time of such executing or levying such execution or attachment, or at the time of making any sale thereunder, notice of any prior act of insolvency by him committed: Provided always that nothing herein contained shall be deemed or taken to give validity to any payment, or to any delivery or transfer of any goods or effects made by any insolvent being a fraudulent preference of any creditor of such insolvent, or to any conveyance or mortgage made or given by any insolvent by way of fraudulent preference of any creditor of such insolvent, or to any execution founded on a judgment on a power of attorney to confess judgment, or consent to a judgment given by any insolvent by way of fraudulent preference.

Payment by insolvent; conveyances by him; contracts and dealings with him; and executions; in what cases valid, if no notice of act of insolvency; but not to extend to fraudulent preferences, &c.

57 No purchase from any insolvent *bonâ fide* and for valuable consideration, where the purchaser had notice at the time of such purchase of an act of insolvency by such insolvent committed, shall be impeached by reason thereof, unless a petition for sequestration of the estate of such insolvent shall have been filed within twelve months after such act of insolvency.

Bonâ fide purchases not to be impeached by notice of act of insolvency, unless petition be filed within 12 months after the act of insolvency.

58 Every transaction, dealing, transfer, delivery, alienation, mortgage, pledge, or payment by any insolvent to or with any creditor of such insolvent, or to or with any other person, which by the law of England at the corresponding period would be and be deemed to be a fraudulent preference of one creditor before other creditors in any proceeding in bankruptcy, or in any suit or action, shall, in the like case

Fraudulent preferences according to the law of England to be deemed such in like cases within this colony.

Digitized by Google

arising within this colony, be and be deemed to be a fraudulent preference according to the true intent and meaning of this Ordinance.

Certain powers of attorney to confess judgment, and consents to judgments, given within two months of filing petition, to be null and void.

59 Every power of attorney to confess judgment in any personal action given by any insolvent after the commencement of this Ordinance, and within two months of the filing of a petition for sequestration of his estate by or against such insolvent, and being for or in respect of (wholly or in part) an antecedent debt or money demand, and every consent to a judgment given by any insolvent at any time after the commencement of this Ordinance, and within two months of the filing of any such petition, in any action commenced by collusion with the insolvent, and not adversely or purporting to have been given in an action, but having been in fact given before the commencement of any action against the insolvent, such insolvent being unable to meet his engagements at the time of giving such power of attorney or consent (as the case may be), shall be deemed and taken to be null and void, whether the same shall have been given by such insolvent in contemplation of the sequestration of his estate as insolvent or not.

And with respect to stamps:

Deeds and other instruments relating to insolvency not liable to stamp duty.

60 No deed, conveyance, assignment, admission, or other assurance of or to or relating solely to any lands, or to any mortgage, charge, or other incumbrance upon, or any estate, right, or interest of and in any lands or personal estate, being the estate of or belonging to any insolvent, or part or parcel thereof, and which after the execution of such deed, conveyance, assignment, or assurance respectively shall either be or remain the estate and property of such insolvent, or of the assignees appointed or chosen under any insolvency, and no power of attorney, order, certificate of conformity, affidavit, or other instrument or writing whatsoever relating solely to the estate or effects of any insolvent, or to any part thereof, or to any proceeding under any insolvency, and no affidavit, bond, or other proceeding under this Ordinance relating solely to insolvency matters, shall be liable to any stamp duty, save and except such stamp duty as is mentioned in schedule P* to this Ordinance annexed.

Certain documents to be stamped.

61 Every document enumerated in the schedule P* to this Ordinance annexed shall be printed or written upon paper having the stamp duty set opposite to such document respectively in such schedule: Provided that where any such document shall consist of more than one sheet only the first sheet thereof shall be impressed with such stamp.

Provisions of Stamp Ordinance to extend to stamps under this Ordinance.

62 The provisions contained in the Ordinance for the time being in force relating to stamps shall (so far as the same are applicable and consistent with the provisions of this Ordinance), in all cases not hereby expressly provided for, be of full force and effect with respect to

* See No. 3 of 1890.

Digitized by Google

the stamps to be provided under and by virtue of this Ordinance, and to the paper on which the same shall be impressed, and shall be applied and put in execution for collecting and securing the sums of money denoted thereby, and for preventing, detecting, and punishing all frauds, forgeries, and other offences relating thereto, as fully and effectually to all intents and purposes as if such provisions had been herein repeated and specially enacted with reference to the said last-mentioned stamps and sums of money respectively.

Documents not to be received unless stamped.

63 No document which by this Ordinance is required to have a stamp impressed thereon shall be received or filed or be used in relation to any proceedings in the court, or be of any validity for any purpose whatever, unless or until the same shall have a stamp impressed thereon: Provided that if at any time it shall appear that any such document which ought to have had a stamp impressed thereon has, through mistake or inadvertence, been received or filed or used without having such stamp, it shall be lawful for the court, if it think fit, to order that such stamp shall be impressed thereon; and thereupon, when a stamp shall have been impressed on such document in compliance with such order, such document and every proceeding in reference thereto shall be as valid and effectual as if such stamp had been impressed thereon in the first instance.

Proviso.

And with respect to the appointment by the court of provisional assignees:

As to appointment by court of provisional assignee.

64 It shall be lawful for the district court, on cause shown by any person interested in the due administration of the insolvent estate at any time after the adjudication of insolvency, by order of court to appoint one or more fit person or persons to be assignee or assignees of any insolvent estate provisionally, and until the creditors of the said estate shall have made choice of assignees, which provisional assignees may be removed at the meeting of creditors for the choice of assignees if the said creditors shall think fit, or may then be chosen as assignees, but shall and may, until so removed, act in the collection, administration, and distribution of the said estate in all respects the same as assignees elected by the creditors are by this Ordinance authorized or required to do: Provided that no such provisional assignees shall proceed to make sale of any part of the said estate without the authority for that purpose of the said court first had and obtained.

Proviso.

Effect of appointment of provisional assignee.

65 Every order of court appointing provisional assignees shall, so soon as made, have the effect in law to vest in such provisional assignees for the uses and purposes of the sequestration, and until their removal, all the present and future estate of the insolvent, real and personal, as fully and completely to all intents and purposes as the said estate is by virtue of the 70th and 71st sections of this Ordinance vested in the assignees chosen by the creditors.

Digitized by Google

And with respect to the choice of assignees, and their rights and duties:

Assignees when and how chosen.

66 At the first public sitting appointed by the court under any insolvency, or at any adjournment thereof, assignees of the insolvent's estate and effects shall and may be chosen and appointed; and all creditors who have proved debts to the amount of ten pounds and upwards shall be entitled to vote in such choice; and also any person authorized by letter of attorney from any such creditor, upon proof of the execution thereof, either by affidavit or by oath before the court *vivâ voce;* and the choice and appointment shall be made by the major part in value of the creditors so entitled to vote: Provided that the court shall have power to reject any person so chosen who shall appear to such court unfit to be an assignee, or to remove any assignee; and upon such rejection or removal a new choice and appointment of another assignee shall be made in like manner.

Court may reject or remove any person chosen as unfit.

Joint creditor entitled to prove under separate estate for the purpose of voting in the choice of assignees.

67 If one or more of the partners of a firm be adjudged insolvent, any creditor to whom the insolvent is indebted jointly with the other partners of the firm, or any of them, shall be entitled to prove his debt for the purpose only of voting in the choice of assignees and of being heard against the allowance of the insolvent's certificate, or of either of such purposes; but such creditor shall not receive any dividend out of the separate estate of the insolvent until all the separate creditors shall have received the full amount of their respective debts.

Who incompetent to be appointed assignee.

68 In no case shall it be competent for the creditors to elect as assignee the insolvent himself, or any person related to the insolvent by consanguinity or affinity within the fourth degree, nor any minor, nor any proctor, nor any person not resident within this colony, nor any person having an interest opposed to the general interest of the creditors in the insolvent estate, nor any person declared to be incapable of being elected by virtue of the provisions in the next succeeding section contained.

Acts of assignee entitling the court to set election aside, and declare offender disqualified.

69 If any person elected as assignee shall be proved to the satisfaction of the district court to have, either directly or indirectly, given or promised to give to any creditor of the insolvent any species of valuable consideration whatsoever, in order to obtain the vote of such creditor at the choice of assignees, or to have agreed to secure and make good to any creditor some certain sum or dividend in discharge or diminution of his debt, upon condition or in order that such creditor should give his vote to such assignee, or to have offered or agreed, in case any creditor of the insolvent should consent to vote for such assignee, to abstain from opening up or investigating some previous transactions between such creditor and the insolvent which were, or were supposed to be, of questionable validity, or to have contrived or been privy to any plan or arrangement by which debts or securities really belonging to some one or

Digitized by Google

more persons have been divided amongst a greater number of persons for the purpose merely of increasing the number of votes at the election for assignees and thereby influencing the same, or to have undertaken to share with any creditor of the insolvent, in return for his vote, the commission or remuneration to be awarded to him as such assignee, the court shall declare such assignee to have forfeited the office of such assignee in regard to the insolvent estate for which he shall have been elected, and to be incapable of being again elected thereto; and it shall be lawful for such court, if it should so think fit, to further declare that the person so offending shall be incapable of being elected an assignee under the provisions of this Ordinance for and during his natural life, or for such period as such court shall determine and adjudge; and any person interested in the due administration of the insolvent estate may apply by motion to such court to declare any such assignee to have forfeited his office by reason of any such misconduct as aforesaid; and as often as a vacancy in the office of assignee shall be created by any such forfeiture the court declaring the same shall order a new assignee to be chosen by the creditors, and the same proceedings shall be had thereon as on the original election of assignees.

Personal estate to vest in assignees.

70 When any person shall have been adjudged an insolvent all his personal estate and effects, present and future, wheresoever the same may be found or known, and all property which he may purchase, or which may revert, descend, be devised or bequeathed, or come to him before he shall have obtained his certificate, and all debts due or to be due to him, wheresoever the same may be found or known, and the property, right, and interest in such debts, shall become absolutely vested in the assignees for the time being, for the benefit of the creditors of the insolvent, by virtue of their appointment; and after such appointment neither the insolvent nor any person claiming through or under him shall have power to recover the same, nor to make any release or discharge thereof; but such assignees shall have like remedy to recover the same in their own names as the insolvent himself might have had if he had not been adjudged insolvent.

Real estate to vest in assignees.

71 When any person shall have been adjudged an insolvent, all lands in this colony to which any insolvent is entitled, and all interests to which such insolvent is entitled in any such lands, and of which he might according to the laws of this colony have disposed, and all such lands in this colony as he shall purchase, or as shall descend, be devised, revert to, or come to such insolvent before he shall have obtained his certificate, and all deeds, papers, and writings respecting the same, shall become absolutely vested in the assignees for the time being, for the benefit of the creditors of the insolvent, by virtue of their appointment, without any deed of conveyance for that purpose, and as often as any such assignee shall die or be lawfully removed or displaced, and a new assignee shall be duly appointed, such of the aforesaid

Digitized by Google

real estate as shall remain unsold or unconveyed shall, by virtue of such appointment, vest in the new assignee, either alone or jointly with the existing assignees, as the case may require, without any conveyance for that purpose.

Insolvent not liable to rents or covenants in conveyances, leases, &c., if assignees accept the same.

72 If the assignees of the estate and effects of any insolvent having or being entitled to any land under a conveyance to him, or under an agreement for any such conveyance, subject to any perpetual yearly rent reserved by such conveyance or agreement, or having or being entitled to any lease or agreement for a lease, shall elect to take such land, or the benefit of such conveyance or agreement or such lease or agreement for a lease, as the case may be, the insolvent shall not be liable to pay any rent accruing after the filing of the petition for sequestration of his estate against him, or to be sued in respect of any subsequent non-observance or non-performance of the conditions, covenants, or agreements in any such conveyance or agreement, or lease or agreement for a lease; and if the assignees shall decline to take such land, or the benefit of such conveyance or agreement or lease or agreement for lease, the insolvent shall not be liable if, within fourteen days after he shall have had notice that the assignees have declined, he shall deliver up such conveyance or agreement or lease or agreement for lease to the person then entitled to the rent, or having so agreed to lease, as the case may be; and if the assignees shall not (upon being thereto required) elect whether they will accept or decline such land or conveyance or agreement for conveyance, or such lease or agreement for a lease, any person entitled to such rent, or having so conveyed or agreed to convey, or leased or agreed to lease, or any person claiming under him, shall be entitled to apply to the district court, and the district court may order them to elect and deliver up such conveyance or agreement for conveyance or lease, or agreement for lease, in case they shall decline the same, and the possession of the premises, or may make such other order therein as it shall think fit.

How if assignees decline.

How assignees compelled to elect.

Assignees how compelled to elect whether they will abide by or decline agreement for the purchase of land.

73 If any insolvent shall have entered into any agreement for the purchase of any estate or interest in land, the vendor thereof, or any person claiming under him, if the assignees shall not (upon being thereto required) elect whether they will abide by and execute such agreement or abandon the same, may apply to the district court, and the court may thereupon order them to deliver up the agreement and the possession of the premises to the vendor or person claiming under him, or may make such other order therein as such court shall think fit.

Assignees may execute power vested in the insolvent.

74 All powers vested in any insolvent which he might legally execute for his own benefit may be executed by the assignees for the benefit of the creditors in such manner as the insolvent might have executed the same.

Court may order insolvent to join in conveyances.

75 It shall be lawful for the district court, upon the application of the assignees or of any purchaser from them of any part of the insolvent's estate, if such insolvent shall

Digitized by Google

not try the validity of the adjudication, or if there shall have been a judgment establishing its validity, to order the insolvent to join in any conveyance of such estate or any part thereof; and if he shall not execute any such conveyance within the time directed by the order, such insolvent and all persons claiming under him shall be stopped from objecting to the validity of such conveyance, and all estate, right, or title which such insolvent had therein shall be as effectually barred by such order as if such conveyance had been executed by him.

Property mortgaged or pledged may be redeemed by the assignees.

76 If any insolvent shall have granted, conveyed, assured, or pledged any real or personal estate, or deposited any deeds, such grant, conveyance, assurance, pledge, or deposit being upon condition or power of redemption at a future day by payment of money or otherwise, the assignees may, before the time of the performance of such condition, make tender or payment of money or other performance, according to such condition, as fully as the insolvent might have done, and after such tender, payment, or performance such real or personal estate may be sold and disposed of for the benefit of the creditors.

Assignees may appoint the insolvent to manage the estate.

77 In every case the assignees may, with the approbation of the district court, appoint the insolvent himself to superintend the management of the estate, or to carry on the trade of such insolvent for behoof of the creditors, and in all or any other respects they may think fit to aid them in administering the insolvent's estate and effects, in such manner and on such terms as they may think best for the benefit of the persons interested in the estate.

Assignees to be subject to orders of the court.

78 The assignees shall be subject to the orders of the district court in their conduct as assignees; and it shall be lawful for the court at all times to summon the assignees, and require them to produce all books, papers, deeds, writings, and other documents relating to the insolvency in their possession, and to direct them to pay and deliver over to the court all monies, books, papers, deeds, writings, and other documents which may have come to their possession or custody as such assignees.

Where one of a firm is insolvent, the court may authorize action in name of the assignees and of the other partner.

79 If any person adjudged insolvent shall at the time of the adjudication of insolvency be a member of a firm, it shall be lawful for the district court to authorize the assignees, upon their application, to commence or prosecute any action in the name of such assignees and of the remaining partner against any debtor of the partnership, and such judgment, decree, or order may be obtained therein as if such action had been instituted with the consent of such partner, and if such partner shall execute any release of the debt or demand for which such action is instituted such release shall be void;

Partner to have notice, and may show cause.

provided that every such partner shall have notice given him of such application, and be at liberty to show cause against it, and if no benefit be claimed by him by virtue of the said proceedings shall be indemnified against the payment of any costs in respect of such action in such manner as the court

Digitized by Google

may direct; and it shall be lawful for such court, upon the application of such partner, to direct that he may receive so much of the proceeds of such action as such court shall direct.

As to sale of estates by assignees, conditions of sale, &c.

80 The assignees shall, subject to the directions of the creditors given at any meeting of such creditors, forthwith proceed to make sale of all the property belonging to the insolvent, real and personal, giving due notice thereof in the *Government Gazette*, and also such other notice as they shall think fit; provided that from the sale of the said personal property shall be excepted, until the creditors shall determine thereon, the wearing apparel, bedding, household furniture, and tools of trade of the insolvent and his family; and provided that the sale of all real property shall take place in such manner and under such conditions as shall be determined on by the greater part in number and value of the creditors present at any meeting duly summoned; provided, however, that such conditions shall be subject to the approval or disapproval of the district court on the application of any person interested therein.

As to wearing apparel, tools, &c., of insolvent.

81 It shall be lawful for the assignees, with the consent of the greater part in number and value of the creditors who shall have proved their debts present at any meeting of creditors whereof, and of the purpose of which ten days' notice shall have been given in the *Government Gazette*, to permit the insolvent to retain, for his own use, the whole or such part of his wearing apparel, bedding, household furniture, and tools of trade excepted from the sale of his personal property, as the said creditors shall agree to allow to the said insolvent; provided that every such permission shall be subject to the approval or disapproval of the district court on the application of any person interested in the due administration of the estate.

Assignees, with leave of the court, may bring or defend actions;

82 The assignees, with the leave of the district court first obtained, upon application to such court, but not otherwise, may commence, prosecute, or defend any action which the insolvent might have commenced and prosecuted or defended, and in such case the costs to which they may be put in respect of such action shall be allowed out of the proceeds of the estate and effects of the insolvent; and with like leave of the court, after notice to the creditors, and subject to such condition (if any) as to obtaining the consent of creditors, or any proportion of them as the court shall think fit to direct, the assignees may take such reasonable part of any debt due to the insolvent's estate as may by composition be obtained, or may give time or take security for the payment of such debts, and may, with like leave of the court, submit to arbitration any difference or dispute between the assignees and any other person for or on account or by reason of anything relating to the estate and effects of the insolvent.

may compound debts;

and refer disputes to arbitrators.

Reference to arbitration may

83 If the assignees shall agree in manner aforesaid to refer any matter in dispute to arbitration, such agreement of

Digitized by Google

reference may be made a rule of court, whether such agreement contain a clause to that effect or not. be made a rule of court.

84 All persons from whom the assignees shall have recovered any real or personal estate, either by judgment or decree, are hereby discharged, in case the petition for sequestration or the adjudication of insolvency thereunder be afterwards annulled or dismissed, from all demands which may thereafter be made in respect of the same by the person against whom such adjudication was made, and all persons claiming under him; and all persons who shall, without action, *bonâ fide* deliver up possession of any real or personal estate to the assignees, or pay any debt claimed by them, are hereby discharged from all claim of any such person as aforesaid in respect of the same, or any person claiming under him; provided the person so delivering up any real or personal estate, or paying any debt, shall not have had notice of an action or other proceeding to dispute or annul the petition for sequestration or adjudication thereunder, and such action or other proceeding shall not have been commenced and prosecuted within the time and in manner allowed by this Ordinance.

If petition or adjudication be annulled, &c persons from whom the assignees have recovered, or who have *bonâ fide* paid the assignees, &c., discharged from claims by the insolvent.

85 If any assignee indebted to the estate of which he is such assignee in respect of money, being part of the estate of the insolvent retained or employed by him, become insolvent and obtain his certificate, it shall have the effect only of freeing his person from arrest and imprisonment, but his future effects (his tools of trade, necessary household goods, and the necessary wearing apparel of himself, his wife, and children excepted) shall remain liable for so much of his debt to the estate of which he was assignee as shall not be paid by dividends under his insolvency, and for interest at the rate of nine per cent. per annum on the whole debt.

Assignee indebted to the estate becoming insolvent, his future property liable.

86 Whenever any assignee shall die or be removed, or a new assignee shall be chosen, no action shall be thereby abated, but the court in which any action is depending may, upon the suggestion of such death or removal and new choice, allow the name of the surviving or new assignee to be substituted in the place of the former, and such action shall be prosecuted in the name or names of the said surviving or new assignee or assignees in the same manner as if he had originally commenced the same.

Suits not to abate by death or removal of assignees.

87 If the assignees commence any action for any money due to the insolvent's estate before the time allowed for the insolvent to dispute the insolvency shall have elapsed, any defendant in any such action shall be entitled, after notice given to the assignees, to pay the same or any part thereof into the court in which such action is brought, and all proceedings with respect to the money so paid into court shall thereupon be stayed until such time shall have elapsed; and if within that time the insolvent shall not have commenced such action or other proceeding as allowed by this Ordinance, and prosecuted the same with due diligence, the money shall

In action against a debtor to the estate, in what case he may pay money into court.

Digitized by Google

be paid out of court to the assignees, but otherwise shall abide the event of such action or other proceeding, and upon such event shall be paid out of court, either to the assignees or the person adjudged insolvent, as the court shall direct; and after such payment of money so made into court it shall not be lawful for the person so adjudged insolvent to proceed against the defendant for recovery of the same money.

Limitation of actions.

88 Every action brought against any person for anything done in pursuance of this Ordinance shall be commenced within three months next after the act committed; and if there be a judgment for the defendant, or if the plaintiff shall be nonsuited or discontinue his action after appearance thereto, the defendant shall receive such indemnity as to all costs, charges, and expenses incurred in and about any such action as shall be taxed by the proper officer in that behalf, subject to be reviewed in like manner and by the same authority as any other taxation of costs by such officer.

And with respect to the last examination:

The insolvent to prepare balance sheet and accounts, &c.

89 The last examination of the insolvent shall be at the second public sitting of the court for the insolvent to surrender and conform, as advertised in the *Gazette*, and the insolvent shall prepare such balance sheet and accounts, and in such form, as the court shall direct, and shall subscribe such balance sheet and accounts, and file the same in court, and deliver a copy thereof to the assignees ten days at least before the day appointed for the last examination, or the adjournment day thereof for that purpose; and such balance sheet and accounts, before such last examination, may be amended from time to time as occasion shall require and such court shall direct; and the insolvent shall make oath of the truth of such balance sheet and accounts whenever he shall be duly required by the court so to do; and the last examination of the insolvent shall in no case be passed unless his balance sheet shall have been duly filed as aforesaid; and the court may on the application of the assignees or of the insolvent make such allowance out of the estate of the insolvent for the preparation of such balance sheet and accounts. and to such person, as the court shall think fit, in any case in which it shall be made to appear to the satisfaction of the court, from the nature of the accounts or other good cause, that the insolvent required assistance in that behalf.

Insolvents apprehended by warrant.

90 If any insolvent apprehended by any warrant of the court shall, within the time allowed for him to surrender, submit to be examined, and in all things conform, he shall have the same benefit as if he had voluntarily surrendered.

Court may adjourn last examination *sine die.*

91 It shall be lawful for the court, at the time appointed for the last examination of the insolvent, or at any enlargement or adjournment thereof, to adjourn such examination *sine die;* and in such case the insolvent shall be free from arrest or imprisonment for such time (if any) as such court shall from time to time, by endorsement on the summons of the insolvent, think fit to appoint.

Digitized by Google

92 Whenever any insolvent is in prison or in custody under any process, attachment, execution, commitment, or sentence, the court may appoint a person to attend him from time to time to produce to him his books, papers, and writings, in order that he may prepare his balance sheet, and show the particulars of his estate and effects, previous to his last examination and discovery thereof.

If insolvent in custody, court may appoint a person to attend him with books, papers, &c., to enable him to prepare a balance sheet.

And with respect to the proof of debts and payments in full:

93 At the sittings appointed by the court under the 30th section of this Ordinance, and at every adjournment thereof, and at every other sitting held for proof of debts, and whereof and of the purport whereof ten days' notice shall have been given in the *Gazette* of this colony, every creditor of the insolvent may prove his debt by his own oath or affidavit; and all bodies politic and public companies incorporated or authorized to sue or bring actions, either by Charter, Act of Parliament, or Ordinance, may prove by an agent, provided such agent shall in his deposition swear that he is such agent, and that he is authorized to make such proof: Provided always that if it shall appear to the court that any clerk, agent, or other person is more fully cognizant of the nature of the debt sought to be proved than the creditor is, the said court shall allow such clerk, agent, or other person to prove such debt by his oath or affidavit; and provided that any creditor who is out of the colony may, in case he have no known agent in the colony capable of proving the alleged debt, make the necessary affidavit before some person duly qualified to administer oaths in the place where he resides, such person being certified to be so qualified by some sufficient authority in that behalf: Provided also, that it shall be lawful for the court to examine upon oath, either by word of mouth or by interrogatories in writing, every person claiming to prove a debt, or to require such further proof, and to examine such other persons in relation thereto, as such court shall think fit.

When and how debts may be proved.

Creditor may be examined upon oath.

94 Every person with whom any insolvent shall have really and *bonâ fide* contracted any debt or demand before the filing of the petition for sequestration of his estate shall, notwithstanding any prior act of insolvency committed by such insolvent, be admitted to prove the same as if no such act of insolvency had been committed; provided such person had not at the time the same was contracted notice of any act of insolvency by such insolvent committed.

Bonâ fide **creditors for debts contracted after an act of insolvency may prove.**

95 The court, out of the estate and effects of the insolvent, shall order payment of all taxes due by the insolvent at the time of his insolvency up to the end of the current quarter.

Amount of taxes.

96 If any person already appointed or employed, or who may be hereafter appointed to or employed, in any office in the Ceylon Savings Bank, or in the Loan Board, or in any friendly society duly incorporated, and being intrusted with

If insolvent an officer of friendly society, court to order payment of debt

Digitized by Google

to them before any other debts.

the keeping of the accounts, or having in his hands or possession by virtue of his office or employment any monies or effects belonging to such savings bank, loan board, or society, or any deeds or securities relating to the same, shall become insolvent, the court shall, upon application made by the order of any such society, or any committee thereof, or the major part of them assembled at any meeting thereof, order payment and delivery over to be made to such society, or to such person as such society or committee may appoint, of all monies and other things belonging to such society, and shall also order payment out of the estate and effects of the insolvent of all sums of money remaining due which the insolvent received by virtue of his said office or employment, before any other of his debts are paid or satisfied.

Three months' wages or salary to clerks or servants.

97 When any insolvent shall have been indebted at the time of filing the petition for the sequestration of his estate to any servant, clerk, or superintendent, labourer, cooly, or workman of such insolvent, in respect of the wages or salary of such servant, clerk, or superintendent, labourer, cooly, or workman, it shall be lawful for the court, upon proof thereof, to order so much as shall be so due, not exceeding three months' wages or salary, and not exceeding thirty pounds, to be paid to such servant, clerk, or superintendent, labourer, cooly, or workman, out of the estate of such insolvent, and such servant, clerk, or superintendent, labourer, cooly, or workman shall be at liberty to prove for any sum exceeding such amount.

Apprentices discharged from their indentures.

Sum to be paid in respect of apprentice fees.

98 When any person shall have been an apprentice to an insolvent at the time of the filing of a petition for sequestration of his estate, the filing of such petition shall be and inure as a complete discharge of the indenture whereby such apprentice was bound; and if any sum shall have been really and *bonâ fide* paid by or on the behalf of such apprentice to the insolvent as an apprentice fee, it shall be lawful for the court, upon proof thereof, to order any sum to be paid out of the estate of the said insolvent to or for the use of such apprentice which such court shall think reasonable, regard being had, in estimating such sum, to the amount of the sum so paid by or on behalf of such apprentice, and to the time during which such apprentice shall have resided with the insolvent previous to the filing of such petition.

Mutual debts and credits may be set off.

99 Where there has been mutual credit given by the insolvent and any other person, or where there are mutual debts between the insolvent and any other person, the court shall state the account between them, and one debt or demand may be set against another, notwithstanding any prior act of insolvency committed by such insolvent before the credit given to or the debt contracted by him; and what shall appear due on either side on the balance of such account, and no more, shall be claimed or paid on either side respectively; and every debt or demand hereby made provable against the estate of the insolvent may also be set off in manner aforesaid against such estate; provided that

Digitized by Google

the person claiming the benefit of such set-off had not, when such credit was given, notice of an act of insolvency by such insolvent committed.

100 Any person who shall have given credit to the insolvent, upon valuable consideration, for any money or other matter or thing whatsoever which shall not have become payable when such insolvent committed an act of insolvency, and whether such credit shall have been given upon any bill, bond, note, or other negotiable security or not, shall be entitled to prove such debt, bill, bond, note, or other security as if the same was payable presently, and receive dividends equally with the other creditors, deducting only thereout a rebate of interest for what he shall so receive, at the rate of nine pounds per centum per annum, to be computed from the declaration of a dividend to the time such debt would have become payable according to the terms upon which it was contracted.

Debts not payable at the time of the insolvency may be proved.

101 Any person who at the time of filing a petition for sequestration of any estate as insolvent shall be surety or liable for any debt of the insolvent, or bail for the insolvent, if he shall have paid the debt or any part thereof in discharge of the whole debt (although he may have paid the same after the filing of the petition for sequestration of the estate), if the creditor shall have proved his debt under the insolvency, shall be entitled to stand in the place of such creditor as to the dividends and all other rights under the insolvency which such creditor possessed or would be entitled to in respect of such proof; or if the creditor shall not have proved, such surety or person liable or bail shall be entitled to prove his demand in respect of such payment as a debt under the insolvency, not disturbing the former dividends, and may receive dividends with the other creditors, although he may have become surety, liable, or bail as aforesaid after an act of insolvency committed by the insolvent; provided that such person had not, when he became such surety or bail or so liable as aforesaid, notice of any act of insolvency by such insolvent committed.

Proof by sureties.

102 The obligee in any bottomry or respondentia bond, and the assured in any policy of insurance made upon good and valuable consideration, shall be admitted to claim, and, after the loss or contingency shall have happened, to prove his debt or demand in respect thereof, and receive dividends with the other creditors as if the loss or contingency had happened before the filing of the petition for sequestration of the estate of such obligee or insurer; and the person effecting any policy of insurance upon ships or goods with any person (as a subscriber or underwriter) having become or becoming insolvent, shall be entitled to prove any loss to which such insolvent shall be liable in respect of such subscription, although the person so effecting such policy was not beneficially interested in such ships or goods, in case the person so interested is not within this colony.

Claim and proof on bottomry or respondentia bonds, and policy of insurance.

Digitized by Google

Proof by annuity creditor.

103 Any annuity creditor of any insolvent, by whatever assurance the same be secured, and whether there were or not any arrears of such annuity due at the time of the filing the petition for sequestration, shall be entitled to prove for the value of such annuity, which value the court shall ascertain, regard being had to the original price given for such annuity, deducting therefrom such diminution in the value thereof as shall have been caused by the lapse of time since the grant thereof to the date of the filing of such petition.

Proof by sureties for payment of annuities.

104 It shall not be lawful for any person entitled to any annuity granted by any insolvent to sue any person who may be collateral surety for the payment of such annuity until such annuitant shall have proved against such insolvent's estate for the value of such annuity, and for the arrears thereof; and if such surety after such proof pay the amount proved, he shall be thereby discharged from all claims in respect of such annuity; and if such surety shall not (before any payment of the annuity subsequent to the filing the petition for sequestration shall have become due) pay the sum so proved, he may be sued for the accruing payments of such annuity until such surety shall have paid or satisfied the amount so proved, with interest thereon, from the time of notice of such proof and of the amount thereof being given to such surety; and after such payment or satisfaction such surety shall stand in the place of such annuitant in respect of such proof to the amount so paid or satisfied by such surety; and the certificate of the insolvent shall be a discharge to him for all claims of such annuitant or of such surety in respect of such annuity; provided that such surety shall be entitled to credit in account with such annuitant for any dividends received by such annuitant under the insolvency before such surety shall have fully paid or satisfied the amount so proved.

Proviso.

Proof for contingent debt.

105 If any insolvent shall before the filing of a petition for sequestration of his estate have contracted any debt payable upon a contingency which shall not have happened before the filing of such petition, the person with whom such debt has been contracted may, if he think fit, apply to the court to set a value upon such debt, and the court is hereby required to ascertain the value thereof and to admit such person to prove the amount so ascertained and to receive dividends thereon; or if such value shall not be ascertained before the contingency shall have happened, then such person may, after such contingency shall have happened, prove in respect of such debt and receive dividends with the other creditors, not disturbing any former dividends; provided such person had not when such debt was contracted notice of any act of insolvency by such insolvent committed.

Claim and proof for contingent liability.

106 If any person who shall be adjudged insolvent after the commencement of this Ordinance shall have contracted before the filing of a petition for sequestration of his estate a liability to pay money upon a contingency which shall not

Digitized by Google

have happened, and the demand in respect whereof shall not have been ascertained before the filing of such petition, in every such case, if such liability be not provable under any other provision of this Ordinance, the person with whom such liability has been contracted shall be admitted to claim for such sum as the court shall think fit; and after the contingency shall have happened, and the demand in respect of such liability shall have been ascertained, he shall be admitted to prove such demand and receive dividends with the other creditors, and, so far as is practicable, as if the contingency had happened and the demands had been ascertained before the filing of such petition, but not disturbing former dividends; provided such person had not at the time such liability was contracted notice of any act of insolvency by such insolvent committed; provided also, that where any such claim shall not have, either in whole or in part, been converted into a proof within six months after the filing of such petition, it may, upon the application of the assignees at any time after the expiration of such time, and if the court shall think fit, be expunged either in whole or in part from the proceedings.

Proviso.

Proof for interest.

107 Upon all debts or sums certain, payable at a certain time or otherwise, whereupon interest is not reserved or agreed for, and which shall be overdue at the filing of the petition for sequestration and provable thereunder, the creditor shall be entitled to prove for interest to be calculated at a rate not exceeding nine pounds per centum per annum, up to the date of the filing of such petition from the time when such debts or sums certain were payable, if such debts or sums be payable by virtue of some written instrument at a certain time, or if payable otherwise, then from the time when demand of payment shall have been made in writing, so as such demand shall give notice to the debtor that interest will be claimed from the date of such demand until the time of payment.

Plaintiff or defendant obtaining judgment, &c., entitled to prove for costs, &c.

108 If any plaintiff in any action or petitioner for the sequestration of the estate of any person as insolvent shall have obtained any judgment, decree, or order against any person who shall thereafter become insolvent for any debt or demand in respect of which such plaintiff or petitioner shall prove under the insolvency, such plaintiff or petitioner shall also be entitled to prove for the costs which he shall have incurred in obtaining the same, although such costs shall not have been taxed at the time of the insolvency; and if any defendant shall have obtained any judgment, decree, or order in any such action or in the matter of any such petition against any person who shall thereafter become insolvent, such defendant shall be entitled to prove for the costs which he shall have incurred in obtaining the same, although such costs shall not have been taxed at the time of the insolvency.

Proving debt to be an election not to proceed

109 No creditor who has brought any action against any insolvent in respect of a demand prior to the filing of a petition for sequestration, or which might have been proved

Digitized by Google

against the insolvent's action.

as a debt under the insolvency, shall prove a debt under such insolvency, or have any claim entered upon the proceedings, without relinquishing such action; and the proving or claiming a debt under a petition for sequestration by any creditor shall be deemed an election by such creditor to take the benefit of such petition with respect to the debt so proved or claimed: Provided that such creditor shall not be liable to the payment to such insolvent or his assignees of the cost of such action so relinquished by him, and that where any such creditor shall have brought any action against such insolvent jointly with any other person, his relinquishing such action against the insolvent shall not affect such action against such other person; provided also, that any creditor who shall have so proved or claimed, if the petition for sequestration be afterwards dismissed, may proceed in the action as if he had not so proved or claimed.

Proviso.

Complaint of debts being proved which are not due; investigation at whose instance, and how.

110 Whenever it shall appear to the assignees, or to two or more creditors who have each proved debts to the amount of twenty pounds or upwards, that any debt proved is not justly due, either in whole or in part, such assignees or creditors may make representation thereof to the court; and it shall be lawful for the court to summon and examine upon oath any person who shall have so proved, together with any person whose evidence may appear to the court to be material, either in support of or in opposition to any such debt; and if the court, upon the evidence given on both sides, or (if the person who shall have proved shall not attend to be examined, having been first duly summoned, or notice having been left at his last place of abode) upon the evidence adduced by such assignees or creditors, shall be of opinion that such debt is not due, either wholly or in part, the court shall be at liberty to expunge the same, either wholly or in part, from the proceedings: Provided that such assignees or creditors requiring such investigation shall, before it is instituted, sign an undertaking, to be filed with the proceedings, to pay such costs as the court shall adjudge to the creditor who has proved such debt, such costs to be recovered by application to the court, upon which an order for payment thereof may be made by the court.

Undertaking for costs.

Creditor having security not to receive more than other creditors.

111 No creditor having security for his debt, or having made any attachment of the goods and effects of the insolvent, shall receive upon any such security or attachment more than a rateable part of such debt, except in respect of any execution served and levied by seizure and sale upon or any mortgage of or lien upon any part of the property of such insolvent before the date of the filing of a petition for sequestration of his estate: Provided always that nothing herein contained shall be deemed to give validity to any power of attorney to confess judgment or consent to a judgment declared to be null and void by any provision of this Ordinance, nor to give validity to any judgment entered up under or by virtue of any such power of attorney or consent, or to any execution executed or levied under or by virtue of any such power of attorney or consent.

Proviso.

Digitized by Google

112 The assignees shall keep an account wherein they shall enter all property of the insolvent received by them and all payments made by them on account of the insolvent's estate, which account every creditor who shall have proved may inspect at all reasonable times; and it shall and may be lawful for the court, whenever it shall think fit, to summon the assignees to produce the said book, and the said court may examine and inspect the same or appoint some qualified person so to do.

Accounts of assignees.

And with respect to the audit, and to the money belonging to the insolvent estate:

113 The district court shall, whenever it shall think fit, appoint a public sitting to be holden after the sitting appointed for the last examination of the insolvent (of which public sitting and of the purport whereof ten days' notice shall be given in the *Gazette* of this colony) to audit the accounts of the assignees; and at such sitting the assignees shall deliver upon oath a true statement in writing of all money received by them respectively, and when, and on what account, and how the same has been employed; and the court shall examine such statement, and compare the receipts with the payments, and ascertain what balances have been from time to time in the hands of such assignees respectively; and it shall be lawful for the court to examine the assignees upon oath touching the truth of such accounts, and to make therein all just allowances.

Audit.

114 The district court may order and allow to be paid out of the assets of any insolvent estate to the assignees appointed by the court or chosen by the creditors, as a remuneration for their services, such sum as shall, upon consideration of the amount of the said estate and the nature of the duties performed by such assignees, appear to be just and reasonable.

Remuneration to assignees.

115 It shall be lawful for and shall be the duty of the creditors of any insolvent estate, at the meeting held for the choice of assignees, immediately after such election, in case such election shall take place at such meeting, and in case such election shall not then take place, then immediately after the votes of the said creditors in regard to such election shall have been given, to nominate and appoint some bank within this colony, with which bank it shall be the duty of the assignees to open an account, and in case of a difference of opinion amongst the said creditors assembled at such meeting, the greater part in value of the said creditors shall determine upon the bank to be so nominated and appointed as aforesaid, and from and after any such nomination and appointment of any such bank the assignees of such insolvent estate, whether chosen by the creditors or provisionally appointed, shall, as soon as they shall receive any sum of money exceeding ten pounds belonging to such estate, open an account with such bank in the name of the insolvent estate, and such sum and every other sum exceeding ten pounds so received by them shall with all convenient speed be paid

Creditors to choose a bank with which assignees shall open an account and lodge the money of the estate.

Digitized by Google

into such bank, to be placed to the credit of such account, and all cheques or orders for the payment of any such money out of the said bank shall truly express the cause of such payment and the name of the person in whose favour it is drawn, and shall be signed by all the assignees, or by one of them for himself and co-assignees; provided that in case the creditors of any insolvent estate shall neglect to nominate any such bank it shall be lawful for the assignees to open an account with and pay all such monies into any such bank in this colony as they shall select: And provided that every provisional assignee appointed under this Ordinance before the meeting of creditors for the choice of assignees shall, pending such meeting, open an account with and pay all such monies into any such bank in this colony as he shall select; and provided that all assignees, whether provisional or elected, shall in regard to the bank with which such account shall be kept, and such monies lodged, pursue such directions as they shall from time to time receive from any general meeting of the creditors of the insolvent estate: Provided that if there shall be no bank at the place where the assignees reside, any sum of money received by them exceeding ten pounds belonging to such estate shall forthwith be paid into the district court.

Penalty upon assignee retaining or employing money belonging to the estate.

116 Any assignee who shall retain in his hands, or knowingly permit any co-assignee so to retain, any sum of money exceeding ten pounds sterling part of any insolvent estate longer than until the first day after his receiving the same upon which it shall be possible for him to pay the said sum, or cause it to be paid, into some such bank or into the district court as aforesaid, and who shall not have any just and lawful cause for so retaining the same, or shall employ for his own benefit, or knowingly permit any co-assignee so to employ, any sum of money part of any insolvent estate, shall forfeit and pay, for the benefit of the said estate, double the amount of the sum so retained or employed; and the said sum so forfeited shall be deducted out of any claim the said assignee may have against the said estate, and the surplus, if any, shall be recovered by action at the suit of any two or more creditors in any competent court.

And with respect to the dividend:

Method of making dividends.

117 The district court shall, whenever it shall think fit, appoint a public sitting to be holden after the sitting appointed for the last examination of the insolvent, when there are assets wherewith a dividend may be made (of which public sitting and of the purport whereof twenty-one days' notice shall be given in the *Gazette* of this colony), to make a dividend of the insolvent's estate, and shall at such sitting direct such part of the net produce of the insolvent's estate as it may think fit to be forthwith divided amongst such creditors as have proved debts under the insolvency in proportion to their respective debts, and shall make an order in writing under the hand of the district judge for dividend accordingly, to be filed with the proceedings, which order shall contain an account of the amount of the debts proved,

Digitized by Google

of the money to be divided, of how much in the pound is then ordered to be paid to the creditors, and of the money allowed by the court to be retained, and of the reason for retaining the same; and the assignees, in pursuance of such order, shall forthwith make such dividend in manner directed by the rules at any time in force under this Ordinance relating to the mode of payment of dividends by the assignees, but no dividend shall be declared unless the accounts of the assignees shall have been first audited.

No dividend without previous audit.

Final dividend within eighteen months, except where suit depending or estate standing out, &c.

118 If the insolvent's estate shall not have been wholly divided upon the first dividend the court shall, within eighteen months after the filing of the petition for sequestration of the estate, appoint a public sitting (whereof and of the purport whereof twenty-one days' notice shall be given in the *Gazette* of this colony) to make a second dividend, when all the creditors who have not proved their debts may prove the same, and at such sitting, but after such an audit as is directed by this Ordinance, shall order the balance in hand to be forthwith divided among such of the creditors as shall have proved their debts; and such second dividend shall be final, unless any action be depending, or any part of the estate be standing out not sold or disposed of, or unless some other estate or effects of the insolvent shall afterwards come to the assignees, in which case they shall as soon as may be convert such estate and effects into money; and within two months after the same shall be so converted the same shall also be divided in manner aforesaid; and if at the expiration of two years from the filing of any petition for sequestration there shall remain any outstanding debts or other property due or belonging to the estate of the insolvent which cannot in the opinion of the court be collected and received without unreasonable or inconvenient delay, it shall be lawful for the assignees, under the direction of the court, to sell and assign such debts and other property, and also the books of the insolvent relating to his trade, dealings, or estate, in such manner and subject to such conditions as shall be ordered by the court; and any person to whom any of such debts shall be so sold or assigned may sue for the same in his own name as fully as the assignees of such insolvent might have done.

Outstanding debts, &c., may be sold, and the purchaser may sue for them.

Remedy for dividend.

119 No action for any dividend shall be brought against any assignee by any creditor who shall have proved under the insolvency; but if the assignees shall refuse to pay any such dividend the court may order payment thereof, with interest for the time that it shall have been withheld, and may also order the costs of the application, and such order shall have the effect of a judgment by the said court.

And with respect to the unclaimed dividends:

Unclaimed dividends, &c., to be paid into the Treasury.

120 All unclaimed dividends, and also any undivided surplus of an insolvent's estate over and above the amount finally directed to be divided amongst the creditors of any insolvent, shall be paid into the Treasury, to be carried in the books of the Treasury to the account intituled "The

Digitized by Google

Unclaimed Dividend Account," subject to the order of the district court, acting in prosecution of any insolvency, for the payment thereout of any dividend due to any creditor.

How unclaimed dividends, &c., in the hands of assignees to be disposed of.

121 Subject to any rule at any time in force under this Ordinance relating to unclaimed dividends, if any assignee under any insolvency shall have, either in his own hands or at any bank, or otherwise subject to his order or disposition, or shall know that there is in the hands or subject to the order and disposition of himself and any co-assignee, or of either of them, any unclaimed dividend or any such undivided surplus as aforesaid, such assignee shall, within three months next after the expiration of one year from the time of the declaration and order of payment of such dividend, either pay the same to the creditor or other the person entitled to the same or cause a certificate thereof to be filed in the district court, containing a full and true account of the name of the creditor to whom such unclaimed dividend is due, and of the amount of such dividend, and shall in like manner as to any undivided surplus as aforesaid, within three months next after the expiration of one year after the final declaration of dividends, cause a certificate stating the full and true amount of such surplus to be filed in the district court, and every certificate to be filed as aforesaid shall be signed by the assignees filing the same, and every assignee shall, within one year next after the filing of any such certificate as aforesaid, pay or cause to be paid into the Treasury, to be carried to the account intituled "The Unclaimed Dividend Account," the full amount of the unclaimed dividends mentioned in such certificate, or so much thereof as shall not have been then paid to the creditors or other persons entitled thereto, and also the full amount of such undivided surplus as aforesaid : Provided always that no certificate of any unclaimed dividend shall be filed until the expiration of one year after the declaration and order for payment of such dividends.

Proviso.

And with respect to allowances to the insolvent :

Allowance to insolvent for maintenance.

122 It shall be lawful for the district court, if it think fit, from time to time to make such allowance to the insolvent out of his estate, until he shall have passed his last examination, as shall be necessary for the support of himself and his family : Provided always that no such allowance shall be made by the court for any period after the adjournment of the last examination *sine die*.

If estate pay 20*s*. in the pound and interest, surplus to be paid to insolvent.

123 If the produce of the estate of any insolvent shall be sufficient to pay twenty shillings in the pound, and interest as hereinafter mentioned, and to leave a surplus, the court may order such surplus to be paid to such insolvent, his executors, administrators, or assigns ; and every such insolvent shall be entitled to recover the remainder, if any, of the debts due to him ; but such surplus shall not be paid until all the creditors who have proved shall have received the interest due upon their debts.

Digitized by Google

And with respect to the certificate of conformity:

124 Forthwith after the insolvent shall have passed his last examination the district court shall appoint a public sitting for the allowance of his certificate (whereof and of the purport whereof twenty-one days' notice shall be given in the *Gazette* of this colony and to the assignees), and at such sitting the assignees or any of the creditors of such insolvent who shall have given to the secretary of the court three clear days' notice in writing of his intention to oppose, may be heard against the allowance of such certificate, and the court having regard to the conformity of the insolvent to this Ordinance, and to his conduct as a trader, or in relation to his estate, before as well as after his insolvency, and whether the allowance of such certificate be opposed by any creditor or not, shall judge of any objection against allowing such certificate, and either find the insolvent entitled thereto, and allow the same, or refuse or suspend the allowance thereof, or annex such conditions thereto, as the justice of the case may require. **Mode of obtaining certificate.**

125 The certificate of conformity under this Ordinance shall be in writing under the hand of the district judge, and shall certify that the insolvent has made a full discovery of his estate and effects and in all things conformed, and that so far as the court can judge there does not appear any reason to question the truth or fulness of such discovery (and shall be in the form Q in the schedule to this Ordinance annexed, or to the like effect); and notice of the allowance of such certificate and of the class thereof shall be advertised in the *Gazette* of this colony in such manner as may be directed by the court. **Form of it.**

126 The certificate of conformity allowed under this Ordinance, subject to the provisions herein contained, shall discharge the insolvent from all debts due by him when he became insolvent, and from all claims and demands made provable under the insolvency: Provided always that no such certificate shall release or discharge any person who was a partner with such insolvent at the time of his insolvency, or was then jointly bound or had made any joint contract with such insolvent, or who was a surety for him. **It discharges insolvent from all debts provable.**

127 No insolvent shall be entitled to a certificate of conformity under this Ordinance, and any such certificate if allowed shall be void, if such insolvent shall, after an act of insolvency, or in contemplation of insolvency, or with intent to defeat the object of this Ordinance, have parted with, concealed, destroyed, altered, mutilated, or falsified, or caused to be concealed, destroyed, altered, mutilated, or falsified, any of his books, papers, writings, or securities, or made or been privy to the making of any false or fraudulent entry in any book of accounts or other document with intent to defraud his creditors, or shall have concealed any part of his property, or if any person having proved a false debt under the insolvency, such insolvent being privy thereto, or afterwards knowing the same, shall not have disclosed the same to his assignees within one month after such knowledge. **Certificate not granted or void if insolvent has concealed or falsified books, &c., or concealed any property, or permitted any fictitious debts to be proved.**

Digitized by Google

Contract or security to induce creditor to forbear opposition void.

128 Any contract or security made or given by any insolvent or other person unto or in trust for any creditor for securing the payment of any money due by such insolvent at his insolvency, as a consideration or with intent to persuade such creditor to forbear opposing, or to consent to the allowance of the insolvent's certificate, or to forbear to petition for the recall of the same, shall be void, and the money thereby secured or agreed to be paid shall not be recoverable.

Certificate may be recalled.

129 At any time within six months after any certificate of conformity shall have been allowed, and subject to such order as to deposit of costs as may be made by the Supreme Court, any creditor of the insolvent, or any assignee, may apply to the Supreme Court that such certificate may be recalled and delivered up to be cancelled; and the Supreme Court may, on good cause shown, order such certificate to be recalled and cancelled.

Insolvent not liable upon any promise to pay debt discharged by certificate.

130 No insolvent after his certificate shall have been allowed shall be liable to pay or satisfy any debt, claim, or demand from which he shall have been discharged by virtue of such certificate, or any part of such debt, claim, or demand upon any contract, promise, or agreement made after the filing of the petition for sequestration of his estate.

Insolvent, having obtained his certificate, free from arrest; may plead his certificate; evidence under it.

Insolvent, if in execution, discharged.

131 Any insolvent who shall, after his certificate shall have been allowed, be arrested or have any action brought against him for any debt, claim, or demand provable under his insolvency, shall be discharged upon entering an appearance, and may plead in general that the cause of action accrued before he became insolvent, and may give this Ordinance and the special matter in evidence; and such insolvent's certificate shall be sufficient evidence of the insolvency, petition for sequestration, and other proceedings precedent to the obtaining such certificate; and if any such insolvent shall be taken in execution or detained in prison for such debt, claim, or demand where judgment has been obtained before the allowance of his certificate, it shall be lawful for any judge of the court wherein judgment has been so obtained, on such insolvent's producing his certificate, to order any officer who shall have such insolvent in custody by virtue of such execution, to discharge such insolvent, and such officer shall be hereby indemnified for so doing.

Appeal against allowance or refusal of certificate.

132 No such certificate shall be delivered to the insolvent until after the expiration of the time allowed for entering an appeal; and if an appeal be duly entered against the judgment of such court for the allowance of the certificate, or for the refusal, the withholding, or the class of the certificate, and notice thereof be given to the court in such manner as may by any general rule or order to be made in pursuance of this Ordinance be directed, the certificate shall be further kept by the court and abide the judgment of the Supreme Court thereupon; and upon any appeal duly entered and prosecuted relating to the certificate or to the judgment of the court as to any offence under this Ordinance charged against the

Digitized by Google

insolvent, the Supreme Court shall have power to rescind or vary the order of the district court, or to make such other order thereon as it may think fit; and upon an order for the allowance of any certificate by the Supreme Court, and whether with conditions or not, or after a suspension thereof by order of the Supreme Court or not, such certificate may be allowed and signed by the district judge or by a judge of the Supreme Court.

Allowance, refusal, or suspension of certificate (except in case of appeal) to be final in what cases.

133 The allowance of the certificate by the district court, and any order for the refusal or suspension of the allowance thereof (except in case of appeal), shall be final and conclusive, and shall not be revised by the district court unless the said court shall thereafter see good and sufficient cause to believe that the allowance of such certificate, or the refusal or suspension thereof, has been obtained on false evidence, or by reason of an improper suppression of evidence, or has otherwise been fraudulently obtained, in any of which cases it shall and may be lawful for the district court, upon the application of the insolvent, or of any creditor of the insolvent, and subject to such order as to deposit of a sum for costs, and to such notices to the insolvent and to creditors by advertisement or otherwise as the court shall think fit, to grant a re-hearing of the matter, and to re-hear the same accordingly, and upon such re-hearing the district court shall make such order as to the allowance of the certificate, or the refusal or suspension thereof, as the justice of the case may require, in like manner, upon like conditions, and having regard to the like circumstances, so far as the case will admit, as upon any original hearing; and in case the certificate shall have been previously allowed, and upon such re-hearing the allowance thereof shall not be confirmed, such certificate shall have no force or effect whatever, and the same shall be delivered up to the court and cancelled.

And with respect to arrangements by deed:

Deeds of arrangement entered into between any debtor and certain of his creditors, in what cases binding on all.

134 Every deed or memorandum of arrangement now or hereafter entered into between any person and his creditors, and signed by or on behalf of six-sevenths in number and value of those creditors whose debts amount to ten pounds and upwards, touching such person's liabilities and his release therefrom, and the distribution, inspection, conduct, management, and mode of winding up of his estate, or all or any of such matters or any matters having reference thereto, shall (subject to the conditions hereinafter mentioned) be as effectual and obligatory in all respects upon all the creditors who shall not have signed such deed or memorandum of arrangement as if they had duly signed the same; and such deed or memorandum, when so signed, shall not be or be liable to be disturbed or impeached by reason of any prior or subsequent act of insolvency: Provided always that every creditor shall be accounted a creditor in value in respect of such amount only as upon an account fairly stated, after allowing the value of mortgaged property and other such available securities or liens from such person, shall appear to be the balance due to him.

Proviso.

Digitized by Google

When deed not to be effectual against creditor who has not signed.

135 No such deed or memorandum of arrangement shall be effectual or obligatory upon any creditor who shall not have signed the same until after the expiration of three months from the time at which such creditor shall have had notice from such person of his suspension of payment, and of such deed or memorandum of arrangement, unless such debtor shall within such time obtain from the district court an order or certificate of the said court declaring or certifying that such deed or memorandum of arrangement has been duly signed by or on behalf of such majority of the creditors as aforesaid ; and it shall be lawful for the district court of the district in which the person shall have resided or carried on business for six months next immediately preceding his suspension of payment to make such order or certificate on the petition of any such person, and to exercise jurisdiction in and over the matters of any such application ; and no creditor who shall not have had fourteen days' notice of any intended application for such order or certificate as aforesaid shall be bound thereby.

Trustee or inspector, &c., to certify as to the deed being signed.

136 When the trustee or inspector under any such deed or memorandum of arrangement, or, if there shall be no such trustee or inspector, when any two of the creditors shall be satisfied that six-sevenths in number and value of the creditors whose debts amount to ten pounds and upwards have signed such deed or memorandum, it shall be lawful for such trustee or inspector, or for such two creditors, as the case may be, to certify the same to the district court in writing, and such certificate shall be filed in court, and shall thereupon be *primâ facie* evidence in all courts that such deed or memorandum of arrangement has been so signed.

Account of debt, &c., to be annexed to such certificate.

137 Every such certificate as last aforesaid shall have appended thereto a full account of the debts of such debtor, together with the names, residences, and occupations of his creditors, and shall be accompanied by an affidavit by such debtor verifying the same ; and any omission in such account, or the insertion therein of any debt not really existing, or of any larger amount of debt than that really existing, and which shall appear to the court to have been made through the culpable negligence or fraud of such debtor, with intent to defraud any of his creditors, shall deprive him of the benefit of the provisions of this Ordinance with respect to arrangements by deed, and of the discharge proposed in any such deed or memorandum of arrangement : Provided always that any omission, insertion, or incorrectness in such account, which shall not have been made through such culpable negligence or fraud as aforesaid, shall not defeat or otherwise affect such deed or memorandum of arrangement.

Proviso.

Rights of creditors.

138 The creditors of every such debtor shall have the same rights respectively as to set-off, mutual credit, lien, and priority, and joint and separate assets shall be distributed in like manner as in insolvency, and no creditor shall be prejudiced or affected by being a party to any such deed or

Digitized by Google

memorandum of arrangement as aforesaid, or by the same being obligatory upon him as to his right or remedy against any person other than such debtor; and every person who would be entitled to prove in insolvency shall be deemed a creditor within the meaning of the provisions of this Ordinance with respect to arrangement by deed.

Court may interfere in case of improper administration of the estate.

139 If any creditor of any person shall be desirous to show that the administration of the estate of such person has not been duly conducted in conformity with such deed or memorandum of arrangement, it shall be lawful for him to apply to the district court by petition, supported by affidavit, stating any facts or circumstances to show that such administration has not been duly conducted, and thereupon the court shall have full power, and it is hereby fully authorized, to consider the subject matter of such application, and if it shall think fit may direct any inquiry, and in such manner as it shall think proper, into the subject of such application, and generally may make such order and exercise such jurisdiction in or over the subject matter of such application and the costs thereof as to the said court shall appear just.

And with respect to composition after adjudication of insolvency:

If after adjudication certain of the creditors accept composition, it shall bind the rest.

140 Any insolvent, at any time after he shall have passed his last examination, may call a meeting of his creditors (whereof and of the purport whereof twenty-one days' notice shall be given in the *Government Gazette*), and if the insolvent or his friend shall make an offer of composition and nine-tenths in number and value of the creditors assembled at such meeting shall agree to accept the same, another meeting for the purpose of deciding upon such offer shall be appointed to be holden, whereof such notice shall be given as aforesaid; and if at such second meeting nine-tenths in number and value of the creditors then present shall also agree to accept such offer, the district court shall and may, upon such acceptance being testified by them in writing, and upon payment of such sum as the court shall direct, annul the adjudication of insolvency and supersede or dismiss the petition for sequestration; and every creditor of such insolvent shall be bound to accept of such composition so agreed to.

Mode of voting in deciding upon such composition.

141 In deciding upon the offer of composition no creditor whose debt is below twenty pounds shall be reckoned in number, but the debt due to such creditor shall be computed in value; and every creditor to the amount of fifty pounds and upwards residing out of Ceylon shall be personally served with a copy of the notice of the meeting to decide upon such offer as aforesaid, and of the purpose for which the same is called, so long before such meeting as that he may have time to vote thereat, and such creditor shall be entitled to vote by letter of attorney executed and attested in manner required for a creditor's voting in the choice of assignees; and if any creditor shall agree to accept any

Digitized by Google

gratuity or higher composition for assenting to such offer he shall forfeit the debt due to him, together with such gratuity or composition ; and the insolvent shall (if thereto required) make oath before the court that there has been no such transaction between him or any person with his privity and any of the creditors, and that he has not used any undue means or influence with any of them to attain such assent.

And with respect to evidence :

Officer of court to produce proceedings and give copies thereof.

142 The proper officer of the district court shall, on the reasonable request of any insolvent, or of any creditor of such insolvent (having proved his debt), or on the like request of the proctor of any such insolvent or creditor, produce and show to such insolvent, creditor, or proctor at such times as the court shall direct every petition for sequestration and adjudication of insolvency against or by such insolvent, and all orders and proceedings under any such petition or adjudication ; and the court shall order the assignees or officer of court, as the case may be, to permit such insolvent, creditor, or proctor to have inspection at all reasonable times of all books, papers, and writings relating to the matters of such petition or adjudication, and the estate of the insolvent in the possession of the assignees or filed in court in such matter, and permit him to inspect and examine the same; and such assignees or such officer shall provide for any such insolvent, creditor, or proctor requiring the same a copy of such petition or other proceeding, books, papers, and writings as aforesaid, or of such part thereof as shall be required, receiving such fee, or sum, or rate of charge as may be authorized by the court in that behalf.

If insolvent do not dispute the insolvency, *Gazette* to be evidence of the adjudication and petition, as against insolvent, and in suits or debts, &c., by assignees.

143 If the insolvent shall not (if he were within this colony at the date of the adjudication) within twenty-one days after the advertisement of the insolvency in the *Government Gazette*, or (if he were in any part of the East India Company's territories at the date of the adjudication) within three months after such advertisement, or (if he were elsewhere at the date of the adjudication) within twelve months after such advertisement, have commenced an action or other proceeding to dispute or annul the petition for sequestration of his estate as insolvent, and shall not have prosecuted the same with due diligence and effect, the *Gazette* containing such advertisement shall be conclusive evidence in all cases as against such insolvent, and in all actions brought by the assignees for any debt or demand for which such insolvent might have sustained any action had he not been adjudged insolvent, that such person so adjudged insolvent became an insolvent before the date and filing of the petition for sequestration, and that such petition was filed on the day on which the same is stated in the *Gazette* to bear date.

In other cases no proof of petitioning creditor's debt

144 In any action (other than an action brought by the assignees for any debt or demand for which the insolvent might have sustained an action had he not been adjudged insolvent), and whether at the suit of or against the assignees

Digitized by Google

or against any person acting under the warrant of the court, for anything done under such warrant, no proof shall be required at the trial of the petitioning creditor's debt or of the act of insolvency respectively, unless the other party in such action shall, if defendant at or before answering, and if plaintiff before issue joined, give notice in writing to such assignees or other person that he intends to dispute one or both, and which of such matters; and in case such notice shall have been given, if such assignees or other person shall prove the matter so disputed, or the other party admit the same, the judge before whom the cause shall be tried may (if he think fit) grant a certificate of such proof or admission; and such assignees or other person shall be entitled to the costs occasioned by such notice, and such costs shall, if such assignees or other person shall obtain a judgment, be added to the costs, and if the other party shall obtain a judgment shall be deducted from the costs which such other party would otherwise be entitled to receive from such assignees or other person.

or act of insolvency, unless notice to dispute them.

145 The court may in all matters before it award such costs as to such court shall seem fit and just; and in all cases in which costs shall be so awarded against any person it shall and may be lawful for such court to cause such costs to be recovered from such person in the same manner as costs awarded by such court in civil suits may be recovered.

Court may award costs, and how recovered.

146 Every person summoned to attend before the court as a person known or suspected to have any of the estate of the insolvent in his possession, or who is supposed to be indebted to the insolvent, shall have such costs and charges as the court in its discretion shall think fit, and every witness summoned to attend before the court shall have his necessary expenses tendered to him in like manner as is now by law required upon service of subpœna to a witness in a civil action.

Witnesses and persons known or suspected to have insolvent's property, &c., when entitled to costs.

And with respect to offences against the law relating to insolvency and other matters in this Ordinance:

147 If any person adjudged insolvent shall not upon the day limited for his surrender, and before three of the clock of such day, or at the hour and upon the day allowed him for finishing his examination, after notice thereof in writing, to be served upon him personally or left at the usual or last known place of abode or business of such person, or personal notice in case such person be then in prison, and notice given in the *Government Gazette* of the filing of the petition for sequestration of his estate as insolvent, as the case may be, and of the sittings of the court (having no lawful impediment proved to the satisfaction of the court at such time, and allowed by the court by a memorandum thereof then made on the proceedings), surrender himself to such court and sign or subscribe such surrender, and submit to be examined before such court from time to time; or if any such insolvent upon such examination shall not discover all his real

Insolvent not surrendering,

not discovering his property,

Digitized by Google

and personal estate, and how and to whom, upon what consideration, and when he disposed of, assigned, or transferred any of such estate (and all books, papers, and writings relating thereunto), except such part as shall have been really and *bonâ fide* before sold or disposed of in the way of his trade or laid out in the ordinary expenses of his family; or if any such insolvent upon such examination shall not deliver up to such court all such parts of such estate, and all books, papers, and writings relating thereunto as shall be in his possession, custody, or power (except the necessary wearing apparel of himself, his wife, and children), or if any such insolvent shall remove, conceal, or embezzle any part of such estate to the value of ten pounds or upwards, or any books of accounts, papers, or writings relating thereto, with intent to defraud his creditors, every such insolvent shall be liable to transportation for life, or for such term not less than seven years as the Supreme Court shall adjudge, or shall be liable to imprisonment, with or without hard labour, for any term not exceeding seven years.

not delivering his books, &c., removing, concealing, or embezzling property, books, &c. Punishment.

148 If any insolvent shall, after an act of insolvency committed, or in contemplation of insolvency, or with intent to defeat the object of the law relating to insolvents, destroy, alter, mutilate, or falsify any of his books, papers, writings, or securities, or make or be privy to the making of any false or fraudulent entry in any book of account or other document, with intent to defraud his creditors, every such insolvent shall on conviction be liable to imprisonment, with or without hard labour, for any term not exceeding three years.

Insolvent destroying or falsifying books, &c. Punishment.

149 If any insolvent shall within three months next preceding the date of the filing of the petition for sequestration of his estate, under the false colour and pretence of carrying on business and dealing in the ordinary course of trade, obtain on credit from any other person any goods or property with intent to defraud the owner thereof; or if any insolvent shall, within such time and with such intent, remove, conceal, or dispose of any goods or property so obtained, every such insolvent shall on conviction be liable to imprisonment, with or without hard labour, for any term not exceeding two years.

Insolvent obtaining goods on credit under false pretences, or removing or concealing goods so obtained. Punishment.

150 Any insolvent or insolvent's wife who shall upon any examination directed or authorized by this Ordinance, and any person who shall upon any examination or in any affidavit or deposition so authorized or directed, or in any affidavit or deposition, wilfully and corruptly give false evidence, or wilfully and corruptly swear anything which shall be false, being convicted thereof shall be liable to the penalties of wilful and corrupt perjury.

False evidence. Perjury.

151 If at the sitting appointed for the last examination of any insolvent, or at any adjournment thereof, it shall appear to the district court that the insolvent has committed any of the offences hereinafter enumerated, the court shall refuse to grant the insolvent any further

If at last examination it appears that insolvent has been guilty of

Digitized by Google

protection from arrest, and if at any sitting or adjourned sitting for the allowance of the certificate of any insolvent it shall appear that he has committed any of such offences, the court shall refuse to grant such certificate, or shall suspend the same for such time as it shall think fit, and shall in like manner refuse to grant the insolvent any further protection.

any of the following offences, further protection refused; certificate refused or suspended.

Offences referred to:

First. If the insolvent shall at any time after the filing of the petition for sequestration of his estate, or within two months next preceding the filing of such petition, with intent to conceal the state of his affairs or to defeat the objects of the law of insolvency, have destroyed any book, paper, deed, writing, or other document relating to his trade, dealings, or estate.

Second. If the insolvent shall, with the like intent, have kept or caused to be kept false books, or have made false entries in, or withheld entries from, or wilfully altered or falsified any book, paper, deed, writing, or other document relating to his trade, dealings, or estate.

Third. If the insolvent shall have contracted any of his debts by any manner of fraud or by means of false pretences, or shall by any manner of fraud or by means of false pretences have obtained the forbearance of any of his debts by any of his creditors.

Fourth. If the insolvent shall at any time within two months next preceding the filing of the petition for sequestration of his estate, fraudulently, in contemplation of insolvency, and not under pressure from any of his creditors, with intent to diminish the sum to be divided among his creditors, or to give an undue preference to any of his creditors, have paid or satisfied any such creditor wholly or in part, or have made away with, mortgaged, or charged any part of his property, of what kind soever.

Fifth. If the insolvent shall at any time after the filing of the petition for sequestration of his estate, and with intent to diminish the sum to be divided among his creditors, or to give an undue preference to any of his creditors, have concealed from the district court or his assignees any debt due to or from him, or have concealed or made away with any part of his property, of what kind soever.

Sixth. If the insolvent shall under his insolvency, or at any meeting of his creditors, within three months next preceding the filing of the petition for sequestration of his estate, have attempted to account for any of his property by fictitious losses or expenses.

Seventh. If the insolvent shall, within six months next preceding the filing of the petition for sequestration of his estate, have put any of his creditors to any unnecessary expense by any vexatious and frivolous defence or delay to any action for the recovery of any debt or demand probable under his insolvency, or shall be indebted in costs incurred in any action so vexatiously brought or defended.

Digitized by Google

Eighth. If the insolvent shall, at any time after the filing of the petition for sequestration of his estate, have wilfully prevented or withheld the production of any book, paper, deed, writing, or other document relating to his trade, dealings, or estate.

Ninth. If the insolvent (being a trader) shall during his trading have wilfully, and with intent to conceal the true state of his affairs, have omitted to keep proper accounts, or shall wilfully and with intent to conceal the true state of his affairs have kept his accounts imperfectly, carelessly, and negligently.

On refusal of certificate or protection, the court may grant assignees or creditor a certificate on which they may sue out execution against the insolvent.

152 The assignees for the time being of the estate and effects of any insolvent, when the accounts relating to his estate shall have become records of the court, shall be deemed judgment creditors of such insolvent for the total amount of the debt which shall by such accounts appear to be due from him to his creditors; and every creditor of any insolvent, immediately after the proof of his debt shall have been admitted, shall be deemed a judgment creditor of such insolvent to the extent of such proof; and the court, when it shall have refused to grant the insolvent any further protection, or shall have refused or suspended his certificate, shall, on the application of such assignees or of any such creditor, grant a certificate in the form R in the schedule to this Ordinance annexed, and every such certificate shall have the effect of a judgment entered up in the said court, until the allowance of the certificate of conformity of such insolvent; and the assignees or the creditor to whom, according to such certificate, the insolvent shall be indebted as therein mentioned, shall be thereupon entitled to issue and enforce a writ of execution against the body of such insolvent; and the production of any such certificate to the secretary of such court shall be sufficient authority to him to issue such writ: Provided always that every such last-mentioned certificate shall be deemed to have been cancelled and discharged by the allowance of the certificate of conformity of such insolvent, from the time of such allowance; provided also that no execution by virtue of any certificate which shall be granted to any creditor or assignees as aforesaid shall be issued, nor shall any such certificate or execution in any manner affect any estate or effects which shall come to or be acquired by the insolvent, after the allowance of his certificate of conformity.

Proviso.

Proviso.

Assignees for the time being may issue execution on such certificate.

153 The assignees for the time being may issue and enforce execution upon any such certificate as last aforesaid, as fully to all intents and purposes as the assignees to whom such certificate shall have been originally granted.

Insolvent taken, not discharged for one year.

154 If any insolvent shall be taken in execution after the refusal of protection, or after the refusal or suspension of his certificate, he shall not be discharged from such execution until he shall have been in prison for the full period of one year, except by order of the district court.

Digitized by Google

155 Every district judge shall transmit to the Colonial Secretary on or before the 15th day of January and the 15th day of July in each year the name and residence of every insolvent whose certificate shall have been refused or suspended by such judge, and who shall then be uncertificated; and the said Colonial Secretary shall thereupon cause a list, alphabetically arranged, showing the names and residences of all such uncertificated insolvents, to be prepared and published in the *Government Gazette* for general information.

List of uncertificated insolvents to be published in the *Gazette* every six months.

156 If any insolvent, or the wife of any insolvent, shall refuse to make and sign the declaration contained in the schedule to this Ordinance annexed, or if any other person shall refuse to be sworn, or shall refuse to answer any lawful question put by the court, or shall not fully answer any such question to the satisfaction of the court, or shall refuse to sign his examination when reduced into writing (not having any lawful objection allowed by the court), or shall not produce any books, papers, deeds, and writings, or other documents in his custody or power, relating to any of the matters under inquiry, which such insolvent, wife of the insolvent, or person, is required by the court to produce, and to the production of which he shall not state any objection allowed by the court, it shall be lawful for the court, by warrant, to commit such insolvent, wife of such insolvent, or other person, to prison, there to remain without bail until he shall submit himself to such court to be sworn, and full answers make to the satisfaction of such court to all such lawful questions as shall be put by the court, and sign such examination, and produce such books, papers, deeds, writings, and other documents in his custody or power, to the production of which no such objection as aforesaid has been allowed.

Any person refusing to be sworn or refusing to answer, or not answering, or fully refusing to sign examination or to produce books, &c., may be committed.

157 If any person be committed by the district court for refusing to answer or for not fully answering any question put to him by the court, such court shall in its warrant of commitment specify every such question: Provided that if any person so committed shall bring any *habeas corpus* in order to be discharged from such commitment, and there shall appear on the return of such *habeas corpus* any such insufficiency in the form of the warrant whereby such person was committed, by reason whereof he might be discharged, it shall be lawful for the Supreme Court, and such court is hereby required, to commit such person to the same prison, there to remain until he shall conform, unless it shall be shown to such court by the person committed that he has fully answered all lawful questions put to him by the district court, or if such person was committed for refusing to be sworn, or for not signing his examinations, unless it shall appear to the Supreme Court that he had a sufficient reason for the same: Provided also that the Supreme Court shall, if required thereto by the person committed, in case the whole of the examination of the person so committed shall not have been stated in the warrant of commitment,

Questions to be specified in warrant.

Proviso.

Digitized by Google

inspect and consider the whole of the examination of such person whereof any such question was a part; and if it shall appear from the whole examination that the answer or answers of the person committed is or are satisfactory, such court shall and may order the person so committed to be discharged.

Persons disobeying any order of court to be committed.

158 If any person shall disobey any rule or order of the district court, duly made by such court, for enforcing any of the purposes and provisions of this Ordinance, or made or entered into by consent of such person for carrying into effect any of such purposes or provisions, the court may, by warrant in the form S in the schedule to this Ordinance annexed, commit the person so offending to prison, there to remain without bail until such court, or the Supreme Court, shall make order to the contrary.

If petitioning creditor's debt be not due, or if act of insolvency be not proved, and petition be filed fraudulently or maliciously, court may order satisfaction.

159 If the debt stated by the petitioning creditor in his affidavit, or in his petition for sequestration, and verified by affidavit to be due to him from any person, shall not be really due, or if, after a petition for sequestration filed, it shall not have been proved that the person against whom such petition has been filed had committed an act of insolvency, and it shall also appear that such petition was filed fraudulently or maliciously, the court shall and may, upon petition of the person against whom any such petition was so filed, examine into the same, and order satisfaction to be made to him for the damages by him sustained.

Petitioning creditor compounding with person after insolvency to forfeit his debt and pay the money, &c.

160 If any petitioning creditor shall, after the filing of his petition, receive any money, satisfaction, or security for his debt or any part thereof, whereby such petitioning creditor may receive more in the pound in respect of his debt than the other creditors, such petitioning creditor shall forfeit his whole debt, and shall also repay or deliver up such money, satisfaction, or security, or the full value thereof, to the assignees of such insolvent for the benefit of the creditors of the insolvent.

Concealing insolvent's effects.

Penalty.

Allowance to persons making discovery.

161 Any person who shall wilfully conceal any real or personal estate of the insolvent, and who shall not within forty-two days after the filing of the petition for sequestration, discover such estate to the court or to the assignees, shall forfeit the sum of one hundred pounds, and double the value of the estate so concealed; and any person, other than the person who shall have concealed the same, who shall after such time voluntarily discover to the court or to the assignees any part of such insolvent's estate not before come to the knowledge of the assignees, shall be allowed five per centum thereupon, and such further reward as the assignees, with the consent of the court, shall think fit to be paid out of the estate recovered on such discovery.

Obtaining money, &c.. to forbear opposition to, or

162 If any creditor of any insolvent shall obtain any sum of money, or any property whatever, or security for money, from any person as an inducement for forbearing to oppose or for consenting to the allowance of the certificate of such

Digitized by Google

insolvent, or to forbear to petition for the recall of the same, every such creditor so offending shall forfeit and lose for every such offence the treble value or amount of such money, property, or security so obtained (as the case may be). **to consent to allowance of, certificate. Penalty.**

163 Any person who shall insert or cause to be inserted in the *Government Gazette*, or in any newspaper, any advertisement under this Ordinance without authority, or knowing the same to be false in any material particular, shall be guilty of an offence, and liable on conviction to punishment by fine or imprisonment as the district court shall award. **Inserting advertisements without authority.**

SCHEDULE.

A.

THE INSOLVENT ORDINANCE, 1853.

Declaration of Insolvency.

I, the undersigned, *A. B.*, of ———, do hereby declare that I am unable to meet my engagements with my creditors.

Dated at the hour of ——— o'clock (in the forenoon, *or* at noon *or* in the afternoon, *as the case may be*) this ——— day of ——— in the year of our Lord ———.

Witness: (Signed) *A. B.*
C. D.

B.

THE INSOLVENT ORDINANCE, 1853.

Petition by a Creditor for Sequestration of his Debtor's Estate.

To the District Court of ———.

The humble petition of ———.

Showeth,

That ——— having resided (*or* carried on business, *as the case may be*) for six months next immediately preceding the date of this petition, within the district of this court, that is to say, at ———, is indebted unto your petitioner in the sum of fifty (*if two petitioners*, seventy, *and if three or more*, one hundred pounds, *as the case may be*), and that your petitioner has been informed and believes that the said ——— did lately commit an act of insolvency within the true intent and meaning of the Insolvent Ordinance.

Your petitioner therefore humbly prays that on proof of the requisites in that behalf the estate of the said ——— may be adjudged insolvent and placed under sequestration.

And your petitioner shall ever pray, &c.

Signed by the petitioner on the ——— day of ——— , 18—, in the presence of ———.

If the petition be by partners, alter the form accordingly, and let it be signed by one on behalf of himself and partners.

If the petition be by several, not being partners, then it must be signed by each, and in such case the names of the several petitioners should be stated in the attestation or attestations relating thereto respectively.

If the petitioner cannot speak to the place of residence or business of the debtor, strike out the averment as to that, and annex to the petition a separate affidavit of some person who can depose to the fact.

If the petition be against partners, alter the form accordingly.

Digitized by Google

C.

THE INSOLVENT ORDINANCE, 1853.

Affidavit of Truth of Allegations in Petition.

——— day of ——— A.D.

———, of ———, in the district of ———, the petitioner named in the petition hereunto annexed, maketh oath and saith that the several allegations in the said petition (*and in the list annexed thereto* where the petition is by the insolvent himself) are true.

Sworn at ———, this ——— day of ———, One thousand Eight hundred and ———, before me ———.

D.

THE INSOLVENT ORDINANCE, 1853.

Petition by a Person for Sequestration of his own Estate as Insolvent.

The humble petition of ———.

Sheweth,

That your petitioner having resided (*or* carried on business, *as the case may be*) for six months next immediately preceding the date of this petition, within the district of this court, that is to say, at ———, and being unable to meet his engagements with his creditors, whose names are inserted in the list to this his petition annexed, has filed a declaration of insolvency in manner and form in that case made and provided, and that your petitioner verily believes that he can make it appear to the satisfaction of the court that his available estate is sufficient to pay his creditors at least five shillings in the pound (*or*, that your petitioner is in actual custody within the walls of the prison at ——— for debt, and has been so since the ——— day of ——— last).

That your petitioner has examined the said list, and that it contains a full and true account of your petitioner's debts and the claims against him, with the names of his creditors and claimants, and the dates of contracting the debts and claims severally, as near as such dates can be stated, the nature of the debts and claims, and securities (if any) given for the same, and that there is reasonable ground for disputing so much of the debts as are thereby mentioned as disputed; and also a true account of the nature and amount of his property, and an inventory of the same and of the debts owing to him, with their dates as nearly as such dates can be stated, and the names of his debtors, and the nature of the securities (if any) which he has for such debts.

Your petitioner therefore humbly prays that on proof of the requisites in that behalf his estate may be adjudged insolvent and placed under sequestration.

And your petitioner shall ever pray, &c.

Signed by the petitioner on the ——— day of ———, 18—, in the presence of ———.

If the petition be by partners, alter the form accordingly, and state the names of the several petitioners in the attestation or attestations relating thereto respectively.

Digitized by Google

E.

THE INSOLVENT ORDINANCE, 1853.

Order to prosecute a Petition for Sequestration in a particular District.

In the Supreme Court of the Island of Ceylon, the ——— day of ——— A.D.

In the matter of a petition for sequestration as insolvent of the estate of *C. D.* of ———.

Upon application made to ——— this day by ——— (of counsel *or* proctor) for ———, and upon reading the affidavit of ———, it is hereby ordered that the petition for sequestration as insolvent of the estate of the above-named *C. D.* be prosecuted in the district court of ———.

F.

THE INSOLVENT ORDINANCE, 1853.

Order to consolidate Proceedings.

In the Supreme Court of the Island of Ceylon, the ——— day of ——— A.D.

Ex parte ———.

In the matter of ———.

Upon application made to ——— this day by ——— (of counsel *or* proctor) for ———, and upon reading the affidavit of ———, it is ordered that (*stating the order*).

G.

THE INSOLVENT ORDINANCE, 1853.

Order to transfer a Petition for Sequestration, &c., from one District Court to another District Court.

In the Supreme Court of the Island of Ceylon, the ——— day of ——— A.D.

Ex parte ———.

In the matter of ———.

Upon application made to ——— this day by ——— (of counsel *or* proctor) for ———, and upon reading the affidavit of ———, it is ordered that (*stating the order*).

H.

THE INSOLVENT ORDINANCE, 1853.

Order for an Attachment upon the Estate of the Insolvent.

In the district court of ———, the ——— day of ———.

In the matter of ———, an insolvent.

To the fiscal of the ——— province.

Whereas the above-named ——— has been adjudged an insolvent under the Insolvent Ordinance, 1853, the estate of the said ——— is hereby placed under sequestration in your hands, and you are hereby ordered forthwith to lay an attachment on the property of the said ——— under inventory thereof, and to proceed therein as directed by the said Ordinance, and to return this order with what you have done thereon to this court on or before the ——— day of ——— next.

And for so doing this shall be your sufficient warrant.

A. B.,
District Judge.

Digitized by Google

Insolvent Estates.

I.

THE INSOLVENT ORDINANCE, 1853.

Order for Petition for Sequestration to be proceeded in, on a substituted Debt.

In the district court of ———, the ——— day of ———.
In the matter of ———, an insolvent.

Upon application made to the court this day, by ——— (of counsel *or* proctor) for ———, a creditor of the above-named insolvent, and who has proved a debt of sufficient amount to support an adjudication, and the debt of the petitioning creditor having been found by the court to be insufficient to support the adjudication of insolvency against the above-named ———, it is hereby ordered that the petition for sequestration filed against the said ——— on the ——— day of ——— be proceeded in, and that the costs of, &c. (*stating such order as to costs of any of the parties concerned as the court thinks fit*).

A. B.,
District Judge.

K.

THE INSOLVENT ORDINANCE, 1853.

Order annulling Adjudication.

In the district court of ———, the ——— day of ———.
In the matter of ———.

Upon reading the proceedings in the above matter, and upon hearing (the evidence now adduced, *if the case be so*, and) what was alleged by ———, and being satisfied that the petitioning creditor's debt and act of insolvency (*or specify the particular matter deemed insufficient, as the case may require*) upon which the adjudication of insolvency made against the said ——— on the ——— day of ——— was grounded, were and are (*or*, was and is) insufficient to support such adjudication, and no other debt or act of insolvency (*or specify the particular matter requisite in lieu of that deemed insufficient, as the case may require*) sufficient to support such adjudication being proved, it is ordered that the adjudication of insolvency made against the said ——— on the said ——— day of ——— be annulled, and the same is hereby annulled accordingly.

A. B.,
District Judge.

L.

THE INSOLVENT ORDINANCE, 1853.

Search Warrant.

In the district court of ———, the ——— day of ———.

Whereas by evidence upon oath it hath been made to appear to this court, acting in the prosecution of a petition for sequestration filed and now in prosecution against ——— of ———, bearing date the ——— of ———, and under which the said ——— has been adjudged insolvent, that there is reason to suspect and believe that property of the said ——— is concealed in the house (*or other place, describing it, as the case may be*) of one ——— of ———, such house not belonging to the said insolvent: These are therefore, by virtue of the Insolvent Ordinance, 1853, to authorize and require you, with necessary and proper assistants, to enter, in the daytime, into the house (*or other place, describing it, as the case may be*) of the said ——— situate at ——— aforesaid, and there diligently

Digitized by Google

to search for the said property, and if any property of the said insolvent shall be there found by you on such search, that you seize the same, to be disposed of and dealt with according to the provisions of the said Ordinance.

Given under my hand in the district court of ———, this ——— day of ———.

A. B.,
District Judge.

To the fiscal of the ——— province.
(*or* To ——— *if any person is specially appointed by the court.*)

M.

THE INSOLVENT ORDINANCE, 1853.

Form of Declaration to be made by the Insolvent or the Insolvent's Wife.

I, *A. B.*, the person adjudged an insolvent under a petition for sequestration of my estate, filed on the ——— day of ——— (*or* I, *C. B.*, the wife of *A. B.*, adjudged an insolvent under, &c.), do solemnly promise and declare that I will make true answer to all such questions as may be proposed to me respecting all the property of the said *A. B.*, and all dealings and transactions relating thereto, and will make a full and true disclosure of all that has been done with the said property, to the best of my knowledge, information, and belief.

(Signed) *A. B.*
(*or C. B.*, wife of the said *A. B.*)

N.

THE INSOLVENT ORDINANCE, 1853.

Admission of Debt due to the Insolvent.

I, the undersigned *J. K.*, of ———, do hereby, in open court, confess that I am indebted to *E. F.*, of ———, an insolvent, in the sum of ——— upon the balance of accounts between myself and the said *E. F.*

(Signed) *J. K.*

Witness:
A. B.,
District Judge.

O.

THE INSOLVENT ORDINANCE, 1853.

Order for Payment of Debt admitted in Court to be due to the Estate of an Insolvent.

In the district court of ———, the ——— day of ———.
In the matter of *E. F.*, an insolvent.

Whereas *J. K.*, of ———, in his examination taken the ——— day of ———, and signed by the said *J. K.*, has admitted that he is indebted to the above-named insolvent in the sum of ——— upon the balance of accounts between the said *J. K.* and the said insolvent, it is hereby ordered that the said *J. K.* do pay to the assignees of the estate and effects of the said insolvent, in full discharge of the sum so admitted, the sum of ——— forthwith (*or if otherwise, state the time*

Digitized by Google

and manner of payment), and that the said *J. K.* do also pay to the said assignees the sum of ——— for the costs of and incident to the summons of the said *J. K.* in this behalf.

A. B.,
District Judge.

If the court shall not adjudge the costs of and incident to the summons to be paid by the person summoned, or if the court shall adjudge the assignees to pay to the person summoned his costs out of the estate of the insolvent, alter the form accordingly.

Q.

The Insolvent Ordinance, 1853.

Certificate of Conformity.

I, ———, district judge of ———, acting in the prosecution of a petition for sequestration of the estate of ———, as insolvent, and bearing date the ——— day of ———, do certify that the said ——— became insolvent before the date and filing of the said petition within the true intent and meaning of the Insolvent Ordinance of 1853, and was thereupon adjudged insolvent accordingly; and I further certify that due notice was given in the *Government Gazette* of this colony of such petition having been filed and of the adjudication thereon, and that two public sittings for the said insolvent to surrender and conform were duly appointed, the last of which said sittings was appointed to be on the ——— day of ——— last; and I further certify that such two several sittings were had pursuant to such notice, and that upon the said ——— day of ——— the said insolvent did surrender himself, and did sign such surrender and submit to be examined from time to time upon oath; and I further certify that the said insolvent did on the ——— day of ——— last finish his examination, and upon such examination made a full disclosure and discovery of his estate and effects, and in all things conformed, and so far as the court can judge there doth not appear any reason to question the truth or fulness of such discovery; and I further certify that on the ——— day of ———, in the district court of ———, I held a public sitting for the allowance of this certificate to the said insolvent (whereof and of the purport whereof the notice required in that behalf was duly given), and having regard to the conformity of the said insolvent to the said Ordinance, and to his conduct as a trader (*or* in relation to his estate) before as well as after his insolvency, I did then and there find the said insolvent entitled to such certificate, and did allow the same; and I further certify that his insolvency has arisen from unavoidable losses and misfortunes, and that he is entitled to and I do award him his certificate as of the first class; (*or*, that his insolvency has not wholly arisen from unavoidable losses and misfortunes, and that he is entitled to and I do award him this certificate as of the second class; *or*, that his insolvency has not arisen from unavoidable losses or misfortunes, and that he is only entitled to and I do only award him this certificate as of the third class).

(*If the certificate be allowed with conditions, the same to be inserted here.*)

Given under my hand in the district court of ———, this——— day of ———.

A. B.,
District Judge.

Signed in the presence of ———.

Digitized by Google

R.

THE INSOLVENT ORDINANCE, 1853.

Certificate to Assignees or to Creditor to entitle them to issue Writ of Execution.

In the district court of ———, the ——— day of ———.

In the matter of ———, an insolvent.

I hereby certify that *A. B.*, of ———, and *C. D.*, of ———, assignees of the estate and effects of the above-named insolvent, are creditors of the said insolvent as such assignees for the sum of £ ——— in trust for the creditors of the said insolvent (*or*, that *E. F.*, of ———, is a creditor of the said insolvent for the sum of £ ———), and that the said insolvent is not protected by this court from process against his person.

G. H.,
District Judge.

S.

THE INSOLVENT ORDINANCE, 1853.

Warrant against Person disobeying any Order of the Court.

Whereas by an order of this court bearing date the ——— day of ———, made for enforcing the purposes and provisions of the Insolvent Ordinance, 1853, it was ordered that (*as in the order*); and whereas it is now proved that after the making of the said order, that is to say, on this ——— day of ———, a copy of the said order was duly served on the said ——— personally, and the original order at the same time shown to him, but the said ——— then refused (*or* neglected) to obey the same, and hath not as yet obeyed the said order: These are therefore to require you forthwith to take into your custody the body of the said ———, and him safely to convey to the prison at ———, and him there to deliver to the keeper of the said prison, together with this precept, and the keeper of the said prison is hereby required to receive the said ——— into his custody and him safely to keep and detain, without bail, until this court or the Supreme Court shall make order to the contrary; and for so doing this shall be your sufficient warrant.

Given under my hand in the district court of ———, the ——— day of ——— in the year ———.

A. B.,
District Judge.

To the fiscal of the ——— province and to the keeper of the prison at ———.

23rd November, 1853.

No. 24 of 1884.

An Ordinance to amend Ordinance No. 7 of 1853, entitled "An Ordinance for regulating the due Collection, Administration, and Distribution of Insolvent Estates."

(See section 199 of "The Civil Procedure Code, 1889.")

WHEREAS it is expedient to amend Ordinance No. 7 of 1853, entitled "An Ordinance for regulating the due Collection, Administration, and Distribution of Insolvent Estates," and to limit the period during which, in certain cases, insolvent debtors may be imprisoned: Be it therefore enacted by the Governor of Ceylon, Preamble.

Digitized by Google

with the advice and consent of the Legislative Council thereof, as follows:

Short title.

1 This Ordinance may be cited as "The Insolvent Estates Amendment Ordinance, 1884."

Construction of Ordinance.

2 This Ordinance shall, except in so far as it is inconsistent therewith, be construed as one with Ordinance No. 7 of 1853, entitled "An Ordinance for regulating the due Collection, Administration, and Distribution of Insolvent Estates," and which in this Ordinance is referred to as "the principal Ordinance."

Court may order release of insolvent, if in custody for debt contracted by fraud, &c., when detained for more than one year.

3 After the first proviso to section 36 of the principal Ordinance the following shall be held to be, and is hereby inserted, "unless it shall appear to the satisfaction of the court that the insolvent shall at the time of this Ordinance coming into operation, or at any time thereafter, have been in prison or custody under or by reason of any such judgment, order, commitment, or sentence as aforesaid for a period of or exceeding one year."

Repeal of section 164 of the principal Ordinance.

4 Section 164 of the principal Ordinance is hereby repealed.

5 Repealed by section 2 of No. 2 of 1889.

6 The provisions of the said section 36 of the principal Ordinance as by this Ordinance amended, and of section 37 of such Ordinance, shall hereafter be taken to apply and extend to Crown debtors, as if the Crown had been specially mentioned in such provisions of the said Ordinance.

25th November, 1884.

No. 10 of 1856.

To provide for the settlement of Claims to Exemption from Taxation of Temple Lands in the Kandyan Provinces, and for the due registration of all Lands belonging to such Temples.

Preamble.

WHEREAS by the Proclamation of the 21st November, 1818, all lands then the property of Buddhist temples in the Kandyan provinces were declared to be exempt from all taxation whatever; and by subsequent Proclamations of the 18th September, 1819, and 21st May, 1822, the persons having the charge or superintendence of such temples were required to register the lands thereunto belonging within the time appointed by the said Proclamations; and the certificate of such registration to be thereupon granted by the revenue commissioner or agent of government was declared to be the sole sufficient proof that such lands were exempted from taxation: And whereas the said register was never completed, and great doubts exist as to what lands belong to the said temples and should be exempted from the tax leviable on other lands of the same description; and it is necessary for the protection of the revenue that measures should be taken for the speedy settlement, upon just grounds, of all claims on the part of such temples to exemption from taxation of the lands belonging thereto, and for ascertaining and defining the extent of all lands belonging to such temples, and making

Digitized by Google

a correct registration thereof: And whereas it is therefore expedient that commissioners should be appointed to carry into effect the provisions of this Ordinance: It is enacted as follows:

1 In citing this Ordinance in any instrument or proceeding, it shall be sufficient to use the expression "The Temple Lands Registration Ordinance, 1856." Short title of Ordinance.

2 The provisions of this Ordinance shall come into operation on the First day of January, 1857. Commencement of Ordinance

3 From the time when this Ordinance shall commence and take effect there shall be within this island one or more person or persons, not exceeding three in number, who shall be the commissioner or commissioners for carrying into effect the provisions of this Ordinance, and for executing the several powers hereby conferred upon them, and such commissioner or commissioners shall from time to time be appointed by the Governor, by a commission or commissions under the public seal of this island. Governor to appoint commissioners to carry the Ordinance into effect.

4 Every such commissioner shall, before proceeding to execute the duties imposed on him by this Ordinance, take and subscribe before some justice of the peace the oath following: Commissioners to take oath of office.

> I, *A. B.*, do swear that I will faithfully, impartially, and honestly, according to the best of my skill and ability, execute and perform the several trusts, powers, and authorities vested and reposed in me as a commissioner by virtue of "The Temple Lands Registration Ordinance, 1856," according to equity and good conscience and without favour or affection, prejudice, or partiality to any person or persons whomsoever. And I do further swear that I will not directly or indirectly receive or knowingly permit any other person to receive any fee or reward for anything done or to be done under the said Ordinance, excepting only such as the said Ordinance appoints or authorizes. So help me God.

Which oath so taken and subscribed by each commissioner shall be enrolled in the Supreme Court. Oath to be enrolled in the Supreme Court.

5 No such commissioner shall be capable, whilst holding such commission, of being a purchaser, either in his own name or in the name or names of any person or persons, of any lands within any part of this island to which the provisions of this Ordinance extend. Commissioner not to be purchaser of land.

6 It shall be lawful for the Governor from time to time to appoint a clerk to the said commissioners, and such other ministerial officers as to him may appear necessary for enabling such commissioners duly to execute the provisions of this Ordinance; and it shall be lawful for the said Governor, with the advice of the Executive Council, from time to time to frame and establish such rules and regulations as to him may appear necessary for carrying into effect the several provisions of this Ordinance: Provided such rules and regulations shall not be repugnant to or inconsistent with this Ordinance. And it shall also be lawful for the said Governor, with the advice aforesaid, to direct to be paid out of the Colonial Treasury to such commissioners, Governor to appoint clerk and other officers; and to make rules for giving effect to the Ordinance. Proviso.

Digitized by Google

clerks, and other officers, such reasonable salaries or remuneration as he may think fit.

Time and place of the sittings of the commissioners, how appointed and notified.

7 The commissioners appointed by virtue of this Ordinance shall hold their sittings at any such place and at such times as shall from time to time be appointed by them, and as shall be found convenient and necessary for the despatch of business; and public notice in writing under the hand of such commissioners of the place and time so to be appointed shall be given by publication in the *Government Gazette*, and in such other manner as such commissioners shall direct, and as may appear best adapted for giving publicity thereto; and the proceedings of the said commissioners in the investigation of any claims or the settlement of any disputes, in virtue of the provisions of this Ordinance, shall be carried on and the decisions and orders of such commissioners shall be pronounced and declared with open doors.

Proceedings of commissioners in the investigation of claims, &c., to be with open doors.

Commissioners to inquire into, ascertain, and set out the boundaries of temple lands in the Kandyan provinces.

8 So soon as this Ordinance shall come into operation the commissioners appointed by virtue thereof shall and they are hereby authorized and required to inquire into the boundaries of all lands, of whatsoever description the same may be, belonging or alleged to belong to or in the possession of all wihares and dewales within any district of the Kandyan provinces, to which the privilege of exemption from taxation of temple lands extends; and in case it shall appear to such commissioners that the boundaries of the same respectively are not sufficiently ascertained and distinguished, such commissioners shall and they are hereby authorized and required to ascertain, determine, set out, and fix the same respectively; and after the said boundaries shall be so ascertained, determined, set out, and fixed, the same shall and are hereby declared to be the boundaries of such lands respectively, so far as regards any question between such temples and Her Majesty's Government, touching any claim to exemption from taxation, or touching the boundaries or extent of any lands whatsoever claimed by any such temple: Provided always that before such commissioners proceed to ascertain and set out such boundaries, they shall and are hereby required to give public notice by writing under their hands in the English and Sinhalese languages, to be affixed in the most public places in the district within which such lands are situated; and also by writing to be delivered to or left at the last or usual places of abode of the persons in charge of the temples to which such lands are alleged to belong, three weeks at least before the time of setting out such boundaries, of their intention to ascertain, determine, set out, and fix the same respectively.

Before doing so, three weeks' public notice of their intention to be given.

So soon as such public notice is given, persons claiming lands on behalf of temples to lodge with commissioners

9 So soon as public notice shall have been given by such commissioners of their intention to ascertain, determine, set out, and fix the boundaries of all temple lands as aforesaid, within any district or village, all persons who shall have or claim to have any right to or in any lands situated within such district or village, belonging or alleged to belong to any wihare or dewale, shall deliver or transmit to such

Digitized by Google

commissioners, within such time as they shall appoint for that purpose, a schedule in writing signed by the person having charge of the revenues of the temple to which such lands are alleged to belong, which schedule shall be, as near as is material, in the form following:

a schedule of such claims.

FORM OF CLAIM.

Description of the land ...	A tract of paddy land, with a chena adjoining (*or a tract of forest land, or as the case may be*), situated in the village of ——— in ———, and known by the name of———
Boundaries and computed extent of the land ...	Bounded north by——, &c., &c., and computed to contain ———.
Name and situation of the temple to which the land is alleged to belong ...	
In what right the claim is made	In right of a sannas dated ——— (*or as the case may be*).
Name and residence of the priest or other person in charge of such land ...	(Signed) *A. B.*, residing in the village of ———.

10 Provided that it shall and may be lawful for any such person, instead of delivering to such commissioners such schedule as aforesaid, to appear in person before such commissioners within such time as may be allowed for that purpose, and to state verbally to such commissioners the particulars of his claim required to be stated in such schedule; and it shall be the duty of such commissioners, or one of them, thereupon to take down in writing, in the form required by the preceding section, the particulars of such claim, and to require such person to sign the same, or, in case of inability, the same shall be signed by the commissioner by whom such claim has been reduced to writing.

Instead of giving in a written claim, parties may appear before the commissioners and state the same verbally. Such verbal statements are to be recorded and signed.

11 All the said claims (whether delivered by the claimants to such commissioners, or by them reduced into writing) shall at all reasonable times, until after the commissioners have made registration of the lands claimed as hereinafter provided, be open to the inspection and perusal of all parties interested or claiming to be interested in the premises, their respective attornies or agents, who may take copies thereof or extracts therefrom respectively; and if any person interested or claiming to be interested in the premises shall have any objection to offer to any such claim, the particulars of such objection shall be reduced into writing and signed by him, and shall be delivered to the said commissioners at or before some meeting of such commissioners, to be by them appointed for that purpose; or such objection shall be verbally stated at any such meeting to such commissioners, and by them reduced into writing, and signed by the party objecting, or in case of his inability to sign, by the commissioner by whom such objection has been reduced into writing; and no such objection as aforesaid shall afterwards be received, unless for some legal disability, or special cause to be allowed by the said commissioners.

Claims to be open to the inspection of all persons interested.

Proceedings if claim objected to.

Digitized by Google

Commissioners to decide questions of exemption from taxation, and boundaries of temple lands.

12 It shall be lawful for such commissioners, and they are hereby required to inquire and determine the right and title of any such temple to exemption from taxation in respect of any lands alleged to belong thereunto, and what are the true and proper boundaries, name, and description of the lands belonging to any such temple; but nothing herein contained shall authorize such commissioners to hear and determine any difference or dispute between any such temple and any person (except differences or disputes between such temple and Our Lady the Queen) touching the right or title to any land of any such person; or to determine any question as to the validity or legal effect and construction of any grant, conveyance, mortgage, or other instrument, in virtue of which any such person claims to be entitled to such property: Provided, however, that no such difference or dispute and that no such question as aforesaid shall impede or delay the commissioners in the execution of the powers vested in them by this Ordinance; but the claims to exemption from taxation shall be inquired into and determined, the boundaries of such temple lands shall be set out, the survey hereinafter mentioned shall be proceeded in, and the register of such lands shall be made, notwithstanding such difference, dispute, or question.

Disputes between temple and private persons not to delay the commissioners.

Instruments dated prior to 1st February, 1840, produced to the commissioners to be copied, and copies filed in district court.

13 If any person claiming on behalf of any such temple any land situated in this island in virtue of any grant, sannas, or other instrument made and executed prior to the 1st day of February, 1840, and of which no public registry exists, shall produce to the said commissioners the grant, sannas, or other instrument in virtue of which such person claims the said property or part thereof, or any right or interest therein, the said commissioners shall, and they are hereby required to examine and inquire strictly into the genuineness and authenticity of such grant, sannas, or other instrument, and if they shall be satisfied that the same is genuine they shall cause a true copy thereof to be made and certified under their hands, and to be then delivered to the secretary of the proper district court, to be by him preserved in the district court, in like manner as the duplicates of other deeds affecting land; and no such grant, sannas, or other instrument dated prior to the said 1st day of February, 1840, and of which no public registry exists, which shall not have been produced to such commissioners in manner above mentioned, on or before the day on which the lands mentioned or described in such instrument shall have been registered as hereinafter provided, and of which a certified copy shall not have been forwarded to the district court for the purpose aforesaid, shall after such registration be admitted in any court as evidence of the title of such temple to the lands therein mentioned or referred to, in any suit with the Crown touching the right to such lands, or to exemption from taxation in respect thereof.

No such instrument, not produced, to be afterwards received in evidence.

Commissioners to be guided by equity, and not

14 In the execution of the powers vested in such commissioners by virtue of this Ordinance they shall be guided by equity and good conscience only, and by the best evidence

Digitized by Google

that can or may be procured, although not such as would be required or be admissible in ordinary cases; nor shall they be bound by the strict rules of law in any case, or by any technicalities or legal forms whatever; and it shall be lawful for the said commissioners, if they think proper, to examine on oath the parties, or any of them, making or opposing any claim investigated or inquired into by such commissioners, touching any of the matters in dispute.

bound by the strict rules of law;

and may examine the parties on oath.

15 It shall be lawful to and for the said commissioners from time to time, as they shall see occasion, by any writing under their hands, to summon and require any person to appear before them at any time and place in such writing to be appointed, to testify the truth touching any claim or any matter in dispute between any proprietors or interested persons, or otherwise relating to the execution of the powers given by this Ordinance, and to produce in evidence all deeds, instruments, surveys, or writings in the possession or control of any such person, in so far as the same shall be necessary for the due investigation of any such claim or dispute, or for enabling the said commissioners duly to execute the powers given by this Ordinance; and to cause a copy of such writing to be served on such person required to give evidence or to produce such deeds, instruments, surveys, or writings, or to be left at his usual or last place of abode; and every person so summoned who shall not appear before such commissioners pursuant to such summons (without assigning some reasonable excuse for not appearing), or appearing shall without sufficient cause refuse to be sworn or examined on oath (which oath such commissioners are hereby empowered and required to administer), or shall without sufficient cause refuse or wilfully neglect to produce any such deeds, instruments, surveys, or writings, shall for every such neglect or refusal forfeit and pay such sum of money, not exceeding five pounds sterling, as such commissioners shall think fit and order; and it shall be lawful for the commissioners in such order to direct payment of any such fine to be made into the police court of the district in which such person resides; and if payment shall not be made as directed the said police court shall proceed to enforce the same and the charges relating to the recovery thereof, and to deal with the person liable to make the same in such manner as if the said fine had been imposed by such court.

Commissioners to have powers to summon witnesses.

Penalty for not obeying the summons.

Fine how recovered.

16 Provided that no witness summoned to attend before such commissioners shall be bound or obliged to travel more than ten miles from his usual place of abode for the purpose of such attendance.

Witness not bound to travel more than ten miles.

17 All evidence given before such commissioners shall be taken down in writing in presence of the witnesses respectively giving the same, and shall at the time of their examination be signed by them, or in case of their refusal or inability to sign, by the commissioner by whom the same has been reduced to writing; and if any person shall in any examination, affidavit, or deposition to be had or taken in pursuance of this Ordinance before any such commissioners,

Evidence to be reduced to writing and signed.

Persons swearing falsely to be deemed guilty of perjury.

Digitized by Google

knowingly and wilfully swear any matter or thing which shall be false, every such person so offending shall, on conviction thereof before any competent court, be deemed guilty of perjury, and shall suffer the like pains and penalties as persons guilty of wilful and corrupt perjury are now subject and liable to.

Commissioners may order witnesses residing at a distance, or unable to attend. to be examined on oath by justice of the peace.

18 In case any party or any witness shall reside at a greater distance than ten miles from the place where the sittings of any such commissioners are appointed to be holden, or if any such person shall by reason of age, sickness, or infirmity be unable to travel, it shall be lawful for such commissioners to order by writing under their hands, that such person shall be examined and cross-examined, upon oath, before any justice of the peace to be named in such order, as to any matter concerning which such commissioners require to be informed; and all justices of the peace in this island are hereby authorized and required, upon the receipt of any such order, to summon such person before him and to examine him upon oath, and to transmit such examination under his hand to the said commissioners.

Duties of such justices of the peace.

Commissioner may order the person in charge of any temple land to put up landmarks.

19 It shall be lawful for such commissioners, whenever they shall see occasion, by writing under their hand, to order and direct the person in charge of any temple land, the boundaries of which have been ascertained and set out by such commissioners under the provisions of this Ordinance, to put up or make such fences, ditches, mounds, or other marks on the land of such description and at such places as to such commissioners shall appear necessary; and if any person shall refuse or neglect to put up or make such landmarks, and at such places as the said commissioners shall have ordered, within one month from the date of such order, it shall be lawful for such commissioners to cause such landmarks to be put up or made, and to recover from such person twice the amount of the costs necessarily incurred therein; and the said costs shall be recovered in like manner as any fine imposed on any witness under the 15th clause of this Ordinance.

On failure or refusal commissioners may have them erected, and recover double the cost of erection.

Penalty for removing or destroying landmark.

20 Every person who shall wilfully remove, destroy, or efface, or attempt to remove, destroy, or efface, any landmark which shall have been put up or made under the authority and for the purposes of this Ordinance, shall be guilty of an offence, and be liable on conviction thereof in any competent court to a fine not exceeding fifty pounds, or to imprisonment, with or without hard labour, for any period not exceeding one year.

Commissioners to draw up a registry of lands.

21 So soon as conveniently may be after the said commissioners shall have ascertained and set out the boundaries of all lands belonging to any such temples within any district, or within any convenient subdivision of a district, or within any village, as the case may be, such commissioners shall form and draw up, or cause to be formed and drawn up, a register thereof, which shall be in the form hereunto annexed marked A, and shall express the situation, description, and name of the several lands registered; the name and

Digitized by Google

situation of the temple to which the same belong; the boundaries, so far as the same can be described by existing landmarks; the extent, so far as the same is known; the names of the adjoining properties, or if they have no names, the names of the adjoining proprietors or occupiers; and the dates and description of any deeds or instruments produced to such commissioners relative to such property: Provided, however, that it shall be lawful for the Governor, with the advice of the Executive Council, to direct that the said registry shall be kept according to such other form, or shall contain such other or such additional information as may be found expedient.

22 The said commissioners shall, at the request of the person in charge of the revenues of any such temple, grant and deliver to him a certificate under their hands, in the form hereunto annexed marked B, that the lands therein named or described have been registered as the property of such temple; and such certificate shall be sufficient proof of the exemption of such lands from taxation, and no other proof of exemption shall in any case be admitted or received in any court.

Commissioners to grant certificates of registration.

23 The said register shall be preserved in the office of the government agent of the province in which such lands shall be situated, to the end that recourse may be had thereto by any person interested therein, for the inspection or perusal thereof; and the said register and the several matters and things therein mentioned and contained shall to all intents and purposes be binding and conclusive upon and against Her Majesty and any temple concerned or interested in the same, or in any of the lands therein registered as aforesaid; and any map or plan which shall be made in virtue of the provisions of this Ordinance, the better to describe the properties mentioned in such register, shall be deposited with such register in the office of such government agent, and shall be deemed and construed in every respect as and for part of the said register.

Register to be preserved in the cutcherry.

Map of the lands to be deposited with the register in the cutcherry.

24 So soon as conveniently may be after such commissioners shall have ascertained and set out the boundaries of all such temple lands within any district or subdivision of a district, or village, as aforesaid, they shall give notice thereof in writing to the Surveyor-General, who shall cause a true and particular survey, admeasurement, and plan of all such lands to be made and reduced into writing, by such person as he shall nominate and appoint; and the number of acres or decimal parts of an acre contained in all the lands so surveyed, and of each particular tract of paddy fields, chena, forest, or other allotment therein contained at the time of making such survey and admeasurement, shall be therein set forth and specified; and such plan shall be delivered to such commissioners to be by them deposited with the register in the office of the government agent as aforesaid.

Commissioners to cause survey and plan to be made.

25 Subject to the limitations and exceptions hereinafter contained, one moiety of the expense of making such survey,

Expenses of the survey how paid.

Digitized by Google

admeasurement, and plan shall be defrayed by the person in charge of the lands surveyed, and shall be a charge upon such lands, and the other moiety of such expense shall be defrayed out of the Public Treasury.

Temple not liable for expenses of survey if it possesses an authenticated plan and there is no dispute as to boundaries.

26 If the person in charge of any temple land shall have in his possession and shall produce to such commissioners, prior to such survey being made, a plan of such land, authenticated by the Surveyor-General of this island, and if it shall not be necessary in the opinion of such commissioners for the settlement of any dispute respecting the boundaries of such land that the same should be surveyed, then and in such case the expense of any survey of such land which may be made under the authority and for the purposes of this Ordinance shall be defrayed out of the Public Treasury.

Powers of the commissioners may be exercised by any one of them.

27 All the powers and duties hereby vested in or imposed upon such commissioners shall and may be exercised and discharged by any one of such commissioners.

Penalty for obstructing commissioners or surveyor.

28 The said commissioners, surveyors, and all persons acting under their orders, shall at all times be entitled to enter upon the lands of any person or body corporate, for the purpose of ascertaining any boundaries, or putting up any landmarks, or making any survey, or for any other purpose contemplated by this Ordinance; and any person who shall wilfully resist, obstruct, hinder, or molest, and any person who shall incite, procure, or assist any other to resist, obstruct, hinder, or molest any commissioner, surveyor, or other person acting in the discharge of any duty or the performance of any act which they or any of them shall be authorized or required to perform under any of the provisions of this Ordinance, shall be guilty of an offence, and liable on conviction to a fine not exceeding five pounds, or to imprisonment, with or without hard labour, for any period not exceeding three months.

16th October, 1856.

SCHEDULE.

Form A.

Register of Temple Lands, Kandyan Provinces.

——— Korale. District of ———.

Letter: Page:

Name and Situation of Temple.	Name of Person in charge.	Property.					Description of Deeds produced.
		Name and Description.	Situation.	Boundaries.	Estimated Extent.	Names of adjoining Properties or Proprietors.	

Form B.

Certificate of Registration.

We, the undersigned, Commissioners appointed under "The Temple Lands Registration Ordinance, 1856," hereby certify that the following lands have been registered by us under the provisions of the said Ordinance as the property of the ——— Temple at ——— in the district of ———.

Description of Land.	Name.	Reference to Register.

Given under our hands at ———, the ——— day of ———, 18 —.

(Signatures of Commissioners.)

16th October, 1856.

No. 18 of 1856.

To prevent the leaving of Carts on the Colombo and Kandy Road.

WHEREAS it is expedient to make further provision for the prevention of obstructions to the traffic upon, and of injury to, the road from Colombo to Kandy, arising from the practice of leaving carts thereon : It is enacted as follows : Preamble.

1 Any person who shall leave, or permit to be left, on the road between Colombo and Kandy, or on the side of such road, any cart or other carriage whatever, without the oxen, horses, or other animals being yoked or harnessed thereto, unless such cart or carriage shall have been accidentally broken down there, and in case of such accident for a longer time than may be necessary for its removal, shall be liable to a fine not exceeding ten shillings, anything contained in the 13th clause of the 63rd section of the Ordinance No. 8 of 1848,* entitled "To make provision for the formation and improvement of the means of communication in this Island," to the contrary notwithstanding. Penalty for leaving carts, &c., on the Colombo and Kandy road.

2 Every offence against this Ordinance may be inquired into, tried, and determined either by the police court of the district in which the offence was committed, or by the nearest police court on the line of road in the direction such cart or carriage may have been travelling. Offences in what courts cognizable.

3 It shall be lawful for any inspector of police, police headman, or other constable, and for any overseer of the road appointed by the Governor, to take charge of any cart or other carriage which may have been left on the said road Carts, &c., of offenders may be detained and sold.

* Repealed by No. 10 of 1861.

Digitized by Google

contrary to the provisions of this Ordinance, and of the oxen, horses, or other animals belonging thereto, and to deposit or keep the same in some place of safe custody until the penalty to which the person having had charge thereof may become liable has been paid ; and if such penalty, and any expenses incurred in feeding and watching such oxen, horses, or animals, shall not be paid within ten days from the day of the conviction, it shall be lawful for the police court before which the case shall have been heard to order that such cart, carriage, oxen, horses, or other animals shall be sold for the purpose of satisfying such penalty and expenses aforesaid.

Ordinance may be applied to other public roads.

4 It shall be lawful for the Governor, with the advice of the Executive Council, by any Proclamation to be by him from time to time for that purpose issued and published in the *Government Gazette*, to declare that the provisions contained in this Ordinance shall extend to any other public road in this colony, whenever it shall appear to the said Governor and Council that a sufficient number of halting places have been constructed along the same ; and thereupon its several provisions shall apply and extend to and may be enforced in reference to any public road mentioned in such Proclamation, as fully to all intents and purposes as if such road had been specially mentioned in this Ordinance.

Limitation of prosecution.

5 No prosecution shall be instituted against any person for an offence against this Ordinance unless the same shall be commenced within one month from the commission of the offence.

Informer's share of fine.

6 It shall be lawful for the court before which any conviction under this Ordinance shall take place to award to the person who may have given information of the offence such share of any penalty actually recovered, not exceeding the half of the sum recovered, as the court may deem fit.

Ordinance when to come into operation.

7 This Ordinance shall come into operation on the First day of April, in the year of our Lord One thousand Eight hundred and Fifty-seven.

22nd November, 1856.

No. 12 of 1859.

For the better Regulation of the Ceylon Savings Bank.

(*As amended by No. 12 of 1892 and No. 7 of 1895.*)

Preamble.

WHEREAS it is expedient to amend the law relating to the management and regulations of the Ceylon Savings Bank : It is enacted as follows :

Repeal of Regulation No. 4 of 1833, of Ordinance No. 1 of 1847, and of Ordinance

1 The Regulation No. 4 of the year 1833, intituled "A Regulation for the protection of the Ceylon Savings Bank, and the fund thereby established"; the Ordinance No. 1 of the year 1847, intituled "To amend the Regulation No. 4 of 1833"; and the Ordinance No. 13 of 1857, intituled "For

Digitized by Google

making further provision for the investment of the Funds of the Ceylon Savings Bank," shall be and the same are hereby repealed. No. 13 of 1857.

2 This Ordinance shall come into operation on such day as the Governor shall by Proclamation appoint. Commencement.

3 This Ordinance may be cited as "The Ceylon Savings Bank Ordinance, 1859." Short title.

4 In interpreting this Ordinance— Interpretation.

The words "the bank" shall mean the Ceylon Savings Bank.

The word "Governor" shall mean the officer executing the Government of Ceylon.

The words "Colonial Secretary" shall mean the person for the time being acting as or for the Colonial Secretary.

5 *The bank shall be under the management of a board of three directors, who shall not directly or indirectly receive any salary, allowance, profit, or benefit whatsoever therefrom. Provided, however, that nothing in this section shall prevent any member of the board (or any officer of the bank) from becoming depositors therein on the same terms as others.* *Management.* [§ *3, 12 of 1892*]

6 *The Colonial Secretary shall be* ex officio *the president of the board of directors. The other members of the board shall be nominated from time to time by the Governor.* *Board how constituted.* [§ *4, 12 of 1892*]

7 Repealed by section 19 of No. 12 of 1892.

8 *The president shall appoint the times for the meetings of the board of directors for the transaction of business. At such meetings two directors shall be sufficient to form a quorum.* *Meetings. Quorum.* [§ *5, 12 of 1892*]

9 The Treasurer of the colony for the time being shall be the treasurer of the said bank. Treasurer.

10 The *board of directors* may, with the approval of the Governor, acting with the advice and consent of the Executive Council, order the treasurer to pay out of the funds of the bank such sums of money as to them shall seem fit, by way of salary or fees, to the secretary, auditor, *accountant*, clerks, and other officers and servants *employed in the business of the bank, and may from time to time order the treasurer to advance to the secretary out of the said fund such sums of money as the Governor shall determine for the current purposes of the bank.* *Board of directors.* [§ *2, 12 of 1892*] [§ *6, 12 of 1892*] [§ *4. 7 of 1895*]

11 A general meeting of the depositors of the said bank shall be held once a year, on or before the 31st day of March, at which meeting the *board of directors* shall submit a statement of the affairs of the said bank for the preceding year. General meeting. [§ *2. 12 of 1892*]

12 The *board of directors* may call special general meetings when they think proper; and, on the requisition of any *two directors* delivered in writing to the secretary, it Special meeting. [§ *7, 12 of 1892*]

Digitized by Google

shall be obligatory on him to call a special general meeting within fifteen days from the date of the delivery of such requisition.

Notice of general meetings.

13 Seven days' notice of every general meeting shall be published in the *Government Gazette* and in all the local newspapers.

Board of directors to make rules and regulations. [§ 2, 12 of 1892]

14 The *board of directors* may from time to time make rules and regulations touching the business of the said bank, which said rules and regulations shall not come into operation until they shall have been approved of by the Governor, with the advice and consent of the Executive Council.

Regulations when valid to be kept in a book.

15 Such rules and regulations shall be entered in a book to be kept at the office of the said bank, which book shall be open at all reasonable hours to the inspection of the depositors.

Regulations on whom binding. [§ 2, 12 of 1892]

16 The said rules and regulations so made as aforesaid shall be binding on the *board of directors* and officers of, and all depositors in, and all borrowers and other persons having dealings with, the bank, and their respective heirs, executors, administrators, assigns, and agents, without further notice thereof.

Printed copies of regulations to be furnished. [§ 2, 12 of 1892]

17 The *board of directors*, and all officers, depositors, borrowers, and other persons having dealings with the bank, and their respective heirs, executors, administrators, assigns, and agents, shall, on demand, be entitled to be furnished by the secretary of the said bank with one printed copy of the said rules and regulations, as often as the same are altered and amended, free of expense, and any additional copies on a reasonable payment for the same.

Depositors. [§ 8, 12 of 1892]

18 *No depositor shall be allowed to deposit in the said bank any sum less than fifty cents at any one time or more than rupees one thousand in any one year, nor shall any depositor be allowed to have at any one time in the said bank a larger sum than rupees three thousand of principal.*

Charitable societies may become depositors. [§ 9, 12 of 1892]

19 Any charitable society or institution may deposit funds in the said bank to the amount of *rupees two thousand five hundred* per annum until such deposits, including interest, shall amount to *rupees seven thousand five hundred*, after which the said deposits shall not bear interest at a higher rate than three per cent. per annum : Provided that the said bank may at any time refuse to receive any sum of money from any such society or institution, and may give thirty days' notice to the treasurer, trustees, or officers thereof to withdraw from the Savings Bank all such sums as may have been deposited therein on behalf of such society or institution, together with the interest which may have accumulated thereon, and from and after the expiration of such period no further interest shall be payable on such deposits.

Discharge for payments made to charitable societies.

20 The receipt of any such treasurer, trustees, or officers for the time being of any such society or institution, for money withdrawn by or paid to such society or institution, shall be a sufficient discharge to the said bank in that behalf.

Digitized by Google

21 *The said bank may receive deposits from or for the benefit of minors, subject to the same regulations as to deposits made by others, and it shall be lawful for the bank to pay to such minors the interest which may become due on such deposits. Any deposit made by or on behalf of any minor may be paid to him personally, or to his guardian for his use, if the deposit was made by any person other than the minor, together with the interest accrued thereon. The receipt of any minor or guardian for money paid to him under this section shall be a sufficient discharge therefor.*

Deposits by or on behalf of minors.
[§ *10, 12 of 1892*]

22 In case any dispute shall arise between the *board of directors* of the said bank, or any person or persons acting under them, and any individual depositor therein, or any trustee of a depositor, or any person claiming to be heir, executor, administrator, assign, or agent of such depositor, then and in every such case the matter so in dispute shall be referred to two arbitrators, one to be appointed by each party, which arbitrators shall in the first instance conjointly appoint an umpire, and the judgment of such arbitrators or umpire shall be conclusive : Provided that neither party shall be entitled to institute any suit in reference to such dispute as aforesaid until after the same has been referred to arbitration in manner aforesaid, and then only in case of the arbitrators or umpire failing to make an award within the time specified in the order of reference, or, if no time is specified therein, within a reasonable time.

Arbitration.
[§ *2, 12 of 1892*]

23 *The several sums which shall from time to time be deposited in the bank shall be invested by the Treasurer, with the concurrence of the directors, on the mortgage of immovable property in this island, or in such Government securities of the United Kingdom of Great Britain and Ireland, or of India, or of this island, or of any British colony, as may be approved by the Governor, and the Treasurer is hereby empowered, with the concurrence of the directors, from time to time to sell, realize, or otherwise dispose of any investments or securities made by him under the provisions of this section.*

Investment of deposits.
[§ *5, 7 of 1895*]

Provided, however, that in the event of the investment of any money in Great Britain, the same shall be made in the names of the Crown Agents for the time being and in the name of Her Majesty's permanent Under Secretary of State for the Colonies, who are hereby empowered from time to time to sell or otherwise dispose of such securities.

Provided also that should any moneys remain in the hands of the Treasurer over and above the principal of the moneys deposited in the said bank, the same may, until so invested as aforesaid, be deposited at interest by the Treasurer, with the concurrence of the directors, in any bank, approved of by the Governor, carrying on business in this island.

24 All mortgages, hypothecations, bonds, receipts, instruments, and securities for monies invested or deposited as aforesaid shall be granted to "the *treasurer* of the Ceylon Savings Bank," without specifying the *name of the treasurer*.

Instruments need not specify the name of treasurer.
[§ *12, 12 of 1892*]

Digitized by Google

Actions by and against the bank. [§ *13, 12 of 1892*]

25 *All suits and actions to be instituted by or against the bank shall be instituted by or against the Attorney-General of the island for the time being.*

Deposits and payments. [§ *14, 12 of 1892*]

26 The *accountant* of the bank shall pay to the treasurer all sums of money received by him from depositors, as often as the same shall amount to *five hundred rupees;* and the treasurer shall not make any payment unless the person or persons applying for that purpose shall produce to him an order signed by the secretary and one *director.*

Bank officers to give security and to contribute to Widows' and Orphans' Pension Fund. [§ *15, 12 of 1892*]

27 *The secretary, the accountant, and other officers of the bank receiving salaries from the funds of the bank are hereby declared to be public officers in the employment of the Government of Ceylon, and may be required to give security for the due performance of the duties of their respective offices under the provisions of "The Public Officers' Security Ordinance, 1890." And all such officers in the receipt of salaries of not less than two hundred and fifty rupees per annum shall be liable to contribute to the Widows' and Orphans' Pension Fund under the provisions of the Ordinance No. 20 of 1885 and the Ordinance No. 1 of 1890.**

Letters of administration when to be dispensed with. [§ *16, 12 of 1892*]

28 *In case of the death of any depositor whose deposits, including interest thereon, shall not amount to rupees one thousand, and where the treasurer shall be satisfied by affidavit that the depositor died intestate, and that no letters of administration are required by law to be taken out, the treasurer shall be at liberty to pay the amount of such deposits to any person or persons appearing to him to be entitled thereto as heir or heirs at law of the deceased depositor; and such payment shall be a full discharge from all further liability in respect of the money so paid.*

Effects of bank in whom vested. [§ *17, 12 of 1892*]

29 All monies, goods, chattels, and effects whatsoever, and all securities for money, or other obligatory instruments and evidences or muniments of title, and all other effects whatsoever, and all rights or claims, belonging to or held by the said bank, shall vest in the *Government of this Colony* for the use and benefit of the said bank and the respective depositors therein, their heirs, executors, administrators, or assigns respectively, according to their respective claims and interest, and also shall, for all purposes of action or suit, as well criminal as civil, in anywise touching or concerning the same, be deemed and taken to be, and shall in every such proceeding (where necessary) be stated to be, the property of "*the Crown,*" without further description.

[§ *17, 12 of 1892*]

Exemption from stamp duty. [§ *18, 12 of 1892*]

30 No power, warrant, or letter of attorney granted or to be granted by the *board of directors,* nor any power, warrant, or letter of attorney given by any depositor in the said bank to any other person, authorizing him to make any deposit of any sum of money in the said bank on behalf of the said depositor, or to sign any document or instrument required by the rules or regulations of the said bank to be signed on making such deposit, or to receive back any sum

* Both repealed by No. 21 of 1896, itself repealed by No. 1 of 1898.

Digitized by Google

of money deposited in the said bank, or the dividends or interest arising therefrom, nor any receipt nor any entry in any book of receipts for money deposited in the said bank, nor for any money received by any depositor, his executors or administrators, assigns, attornies or agents, from the funds thereof, nor any draft or order, nor any appointment of any agent, nor any certificate or other instrument for the revocation of such appointment, nor any bond or other instrument or document whatsoever required or authorized to be given, issued, signed, made, or produced in pursuance of this Ordinance, or of the rules and regulations of the said bank, shall be subject to or be charged with any stamp duty or duties whatsoever.

7th December, 1859.

No. 12 of 1892.

An Ordinance to amend "The Ceylon Savings Bank Ordinance, 1859."

(*As amended by No. 7 of 1895.*)

WHEREAS it is expedient to amend Ordinance No. 12 of 1859, intituled "An Ordinance for the better Regulation of the Ceylon Savings Bank:" Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows: — Preamble.

1 This Ordinance and Ordinance No. 12 of 1859, hereinafter called "the principal Ordinance," shall be construed and read as one Ordinance. — To be read with Ordinance No. 12 of 1859.

2 Wherever the words "the managing body" appear in the principal Ordinance there shall be substituted therefor the words "the board of directors." — Board of directors.

3 For section 5 of the principal Ordinance the following shall be substituted: — Management.

> The bank shall be under the management of a board of three directors, who shall not directly or indirectly receive any salary, allowance, profit, or benefit whatsoever therefrom. Provided, however, that nothing in this section shall prevent any member of the board (or any officer of the bank) from becoming depositors therein on the same terms as others.

4 For section 6 of the principal Ordinance the following shall be substituted: — Board how constituted.

> The Colonial Secretary shall be *ex officio* the president of the board of directors. The other members of the board shall be nominated from time to time by the Governor.

5 For section 8 of the principal Ordinance the following shall be substituted: — Meetings. Quorum.

> The president shall appoint the times for the meetings of the board of directors for the transaction of business. At such meetings two directors shall be sufficient to form a quorum.

6 In section 10 of the principal Ordinance for the word "actuary" shall be substituted the word "accountant," and for the words "of the said bank" shall be substituted the words "employed in the business of the bank." — Officers.

7 In section 12 of the principal Ordinance for the words "five managers" shall be substituted the words "two directors." — Directors.

Digitized by Google

Depositors.

8 For section 18 of the principal Ordinance the following shall be substituted :

No depositor shall be allowed to deposit in the said bank any sum less than fifty cents at any one time or more than rupees one thousand in any one year, nor shall any depositor be allowed to have at any one time in the said bank a larger sum than rupees three thousand of principal.

Extent to which charitable societies may deposit.

9 In section 19 of the principal Ordinance for the words "two hundred and fifty pounds" shall be substituted the words "rupees two thousand five hundred," and for the words "seven hundred and fifty pounds" shall be substituted the words "rupees seven thousand five hundred."

Deposits by or on behalf of minors.

10 For section 21 of the principal Ordinance the following shall be substituted :

The said bank may receive deposits from or for the benefit of minors, subject to the same regulations as to deposits made by others, and it shall be lawful for the bank to pay to such minors the interest which may become due on such deposits. Any deposit made by or on behalf of any minor may be paid to him personally or to his guardian for his use, if the deposit was made by any person other than the minor, together with the interest accrued thereon. The receipt of any minor or guardian for money paid to him under this section shall be a sufficient discharge therefor.

Treasurer.

11 Repealed by section 3, No. 7 of 1895.

12 In section 24 of the principal Ordinance for the word "trustees" shall be substituted the word "treasurer," and for the words "names of the trustees" shall be substituted the words "name of the treasurer."

Actions by and against the bank.

13 For section 25 of the principal Ordinance the following shall be substituted :

All suits and actions to be instituted by or against the bank shall be instituted by or against the Attorney-General of the island for the time being.

Deposits and payments.

14 In section 26 of the principal Ordinance for the word "actuary" shall be substituted the word "accountant," for the words "fifty pounds" shall be substituted the words "five hundred rupees," and for the words "secretary and one of the trustees" shall be substituted the words "secretary and one director."

Bank officers to give security and to contribute to Widows' and Orphans' Pension Fund.

15 For section 27 of the principal Ordinance the following shall be substituted :

The secretary, the accountant, and other officers of the bank receiving salaries from the funds of the bank are hereby declared to be public officers in the employment of the Government of Ceylon, and may be required to give security for the due performance of the duties of their respective offices under the provisions of "The Public Officers' Security Ordinance, 1890." And all such officers in the receipt of salaries of not less than two hundred and fifty rupees per annum shall be liable to contribute to the Widows' and Orphans' Pension Fund under the provisions of the Ordinance No. 20 of 1885 and the Ordinance No. 1 of 1890.*

Letters of administration when to be dispensed with.

16 For section 28 of the principal Ordinance the following shall be substituted :

In case of the death of any depositor whose deposits, including interest thereon, shall not amount to rupees one thousand, and where the treasurer shall be satisfied by affidavit that the depositor died intestate, and that no letters of administration are required by law to be taken out, the treasurer shall be at liberty to pay the amount of such deposits to any person or persons appearing to him

* Both repealed by No. 21 of 1896, itself repealed by No. 1 of 1898.

Digitized by Google

to be entitled thereto as heir or heirs at law of the deceased depositor; and such payment shall be a full discharge from all further liability in respect of the money so paid.

17 In section 29 of the principal Ordinance for the words "trustees thereof" shall be substituted the words "the Government of this colony," and for the words "the trustees of the Ceylon Savings Bank" shall be substituted the words "the Crown." Effects of bank in whom vested.

18 In section 30 of the principal Ordinance for the words "trustees of the said bank" shall be substituted the words "board of directors."

19 The definition of "Treasurer of Ceylon" in section 4, and the whole of sections 7 and 31 of the principal Ordinance, are hereby repealed. Repeal.

Provided, however, that neither such repeal nor any of the provisions hereinbefore enacted shall affect—

(*a*) Anything duly done or suffered under any enactment hereby amended or repealed; or

(*b*) Any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment hereby amended or repealed; or

(*c*) Any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, or liability, as aforesaid; and any such investigation, legal proceeding, and remedy may be carried on as if this Ordinance had not passed.

20 This Ordinance shall come into operation on such day as the Governor shall appoint by Proclamation in the *Government Gazette*.* Commencement.

17th October, 1892.

No. 7 of 1895.

An Ordinance to amend Ordinance No. 12 of 1859, intituled "The Ceylon Savings Bank Ordinance, 1859."

WHEREAS it is expedient to amend "The Ceylon Savings Bank Ordinance, 1859," hereinafter referred to as the principal Ordinance: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1 This Ordinance shall be construed and read as one with the Ordinances No. 12 of 1859 and No. 12 of 1892, and shall come into operation on such day as the Governor shall appoint by Proclamation in the *Government Gazette*.† To be read with Ordinances No. 12 of 1859 and No. 12 of 1892. Commencement.

2 This Ordinance, Ordinance No. 12 of 1859, and Ordinance No. 12 of 1892 may be cited together as "The Savings Bank Ordinances, 1859, 1892, and 1895." Short title.

3 Section 11 of Ordinance No. 12 of 1892 is hereby repealed. Provided, however, that such repeal shall not affect any right, privilege, obligation, or liability acquired, accrued, or incurred under the provisions of the section hereby repealed, or any legal proceedings or remedy in respect of such right, privilege, or obligation as aforesaid. Repeal.

4 To section 10 of the principal Ordinance the following shall be added, namely: Section 10 amended.

And may from time to time order the Treasurer to advance to the secretary out of the said fund such sums of money as the Governor shall determine for the current purposes of the bank.

* Proclaimed the 1st day of January, 1893.
† Proclaimed the 1st day of February, 1896.

Digitized by Google

5 For section 23 of the principal Ordinance the following shall be substituted, namely:

Investment of deposits.

The several sums which shall from time to time be deposited in the bank shall be invested by the Treasurer, with the concurrence of the directors, on the mortgage of immovable property in this island, or in such Government securities of the United Kingdom of Great Britain and Ireland, or of India, or of this island, or of any British colony, as may be approved by the Governor, and the Treasurer is hereby empowered, with the concurrence of the directors, from time to time to sell, realize, or otherwise dispose of any investments or securities made by him under the provisions of this section.

Provided, however, that in the event of the investment of any money in Great Britain, the same shall be made in the names of the Crown Agents for the time being and in the name of Her Majesty's permanent Under Secretary of State for the Colonies, who are hereby empowered from time to time to sell or otherwise dispose of such securities.

Provided also that should any moneys remain in the hands of the Treasurer over and above the principal of the moneys deposited in the said bank, the same may, until so invested as aforesaid, be deposited at interest by the Treasurer, with the concurrence of the directors, in any bank, approved of by the Governor, carrying on business in this island.

23rd October, 1895.

No. 1 of 1860.

An Ordinance to prevent the overcrowding of Vessels carrying Passengers in the Gulf of Mannar and Palk's Straits.

Preamble.

WHEREAS it is necessary to prevent the overcrowding of vessels carrying passengers in the Gulf of Mannar and Palk's Straits: And whereas the Ordinance No. 10 of 1857 was passed for effecting the above purpose, which said Ordinance has expired, and the Ordinance No. 8 of 1853 has thereby become revived: It is enacted as follows:

Commencement.

1 This Ordinance shall come into operation from the day of the passing thereof.

Repeal.

2 The Ordinance No. 8 of 1853, intituled "To regulate the number of Passengers on board of Vessels proceeding from Ceylon to certain parts of the East Indies," is hereby repealed.

Interpretation.

3 For the purposes of this Ordinance the word "vessel" shall not apply to any vessel propelled partly or wholly by steam.

Number of passengers to be carried in unlicensed vessels.

4 No vessel shall carry passengers from any port or place in Ceylon to any port or place in India in the Gulf of Mannar or Palk's Straits, in a proportion greater than one passenger to every four tons of the burden of such vessel, without a license.

Number of passengers to be carried in licensed vessels.

5 No vessel shall be licensed to carry passengers on any such voyage as aforesaid in a proportion greater than one passenger to every ton of burden, nor unless the vessel has space on a deck or platform, under hatches, reserved for the accommodation of the passengers, in the proportion of six superficial feet for every passenger, with not less than five feet clear between the upper deck and the lower deck or

Digitized by Google

platform, except a vessel proceeding in ballast, which may be licensed to carry a number of passengers not exceeding the proportion of two and a half to every ton of her burden; provided that the whole of the space usually allotted for cargo, and not occupied by ballast, be kept for the accommodation of the passengers, and for storing the provisions and water for their use; and that the space left clear for the accommodation of the passengers on the deck or decks of the vessel be not less than four superficial feet for each passenger.

Penalty on master of unlicensed vessel.

6 The master or tindal of any vessel which shall carry passengers on any such voyage as aforesaid without a license, in a proportion exceeding that laid down in the 4th section of this Ordinance, shall be liable to a fine not exceeding two pounds for each passenger in excess of such proportion.

Penalty on master of licensed vessel.

7 The master or tindal of any licensed vessel which shall carry on any such voyage a greater number of passengers than is specified in the license, or in which the accommodation therein required shall not be afforded, or who shall knowingly receive or allow to come on board such vessel a greater number of passengers than is specified in the license, intending to proceed to sea with such passengers on any such voyage, shall be liable for any such offence to a fine not exceeding two pounds for each passenger in excess of such number, or for each passenger who is not provided with accommodation agreeably to the license.

Government to appoint ports for shipment of passengers when the number of passengers to be carried is greater than one to every four tons of burden.

8 Passengers in a greater number than one passenger to every four tons of the burden of any vessel shall not be shipped from Ceylon for any port or place in India in the Gulf of Mannar or Palk's Straits, except from such ports as shall be from time to time appointed by the Governor by an order published in the *Government Gazette;* and the master or tindal of any vessel who shall take on board passengers for such voyage from any other port or place in a greater proportion to the burden of the vessel than is above-mentioned shall be liable to a fine not exceeding two pounds for each passenger embarked.

Grant of license to vessels.

9 It shall be at the discretion of the collectors of customs for the ports appointed for shipping passengers, or such other persons as the Governor may from time to time appoint for the purpose, to grant licenses to vessels under this Ordinance. The license shall describe the vessel, her tonnage and rig, the number of her boats, anchors, and cables, also the name of the owner and of the master or tindal, and the number of the crew, and shall specify the number of passengers she may carry and the space to be assigned for their accommodation: Provided if any doubts shall arise whether any vessel about to proceed with passengers as aforesaid is seaworthy, so as to be fit for her intended voyage, and such doubts shall not be removed to the satisfaction of the collector of customs at the port from which such vessel is to be cleared out, it shall be lawful for such collector to cause such vessel to be surveyed by such person as shall be appointed by the Governor for that purpose, and if it shall be reported by such person that

Digitized by Google

such vessel is not seaworthy with reference to such voyage, such vessel shall not be cleared out until such vessel shall have been rendered seaworthy.

Supply of provisions on board passenger vessels plying to and from Ceylon, &c.

10 The master or tindal of any vessel licensed to carry passengers from any port in Ceylon to any port or place in India in the Gulf of Mannar or Palk's Straits who shall proceed on any such voyage without having laid in a supply of water and provisions for the passengers, according to a scale to be fixed by the collector of customs for such port, or such other person as the Governor may from time to time appoint for the purpose, and which shall be hung up at the custom house of the port, shall be liable to a fine not exceeding ten pounds.

List of passengers to be signed by master.

11 The master or tindal of any vessel licensed to carry passengers as hereinbefore provided shall sign and deliver, in duplicate, to the principal officer of customs at the place of embarkation, or such other person as the Governor may from time to time appoint for the purpose, a list, according to the form annexed to this Ordinance, of all passengers to be conveyed in such vessel, and such officer, after satisfying himself of the correctness of the same, and that the number of passengers authorized is not exceeded, shall countersign and return one such list to the master or tindal, to be produced to the proper officer at the port to which the vessel is bound; and should any additional passengers engage to proceed by such vessel after such list has been so countersigned, the master or tindal may insert their number in the original list, obtaining the signature of the controlling officer as before. The officer in charge of the customs may withhold the port clearance till this provision is complied with.

Additional passengers.

Penalty for impeding entry or inspection.

12 The principal officer in charge of the customs at the port of embarkation, or any person authorized by him, shall be at liberty at all times to enter and inspect any passenger vessel and the fittings, provisions, and stores therein, and to muster the passengers and crew, and whoever impedes such entry, inspection, or muster, or refuses to allow the same, shall be liable to a fine not exceeding five pounds.

Penalty on landing passenger at a place other than at which he has contracted to land.

13 If any passenger in any vessel shall be landed at any port or place other than the port or place at which he may have contracted to land, unless with his previous consent, or unless such landing is made necessary by perils of the sea or other unavoidable accident, the master shall for each offence be liable to a penalty not exceeding twenty pounds.

Passenger's right of action preserved.

14 Nothing in this Ordinance contained shall take away or abridge any right of action which may accrue to any passenger or to any other person in respect of the breach or non-performance of any contract made with the master or owner of the vessel or his agent.

Adjudication of offences and recovery of penalties.

15 Any offence against this Ordinance, though the same may be beyond the jurisdiction of a police court by reason of the amount of punishment to which the offender is liable, shall and may nevertheless be inquired into, tried, and

Digitized by Google

punished by the police court of the district in which the offence was committed, wholly or in part, or where the offender is found; and any fine imposed on the master or tindal of any vessel for a breach of this Ordinance may be recovered from the owner of such vessel or from his agent; and if the person directed to pay any penalty is the master or tindal of a vessel, and the same is not paid at the time and in the manner prescribed by the order of payment, the court ordering such payment may, in addition to the means prescribed by law for enforcing payment, direct, by warrant, the amount remaining unpaid to be levied by distress and sale of the said vessel, her tackle, furniture, and apparel.

Sum ordered to be paid leviable by distress on vessel.

16 Any police magistrate imposing any penalties under this Ordinance may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any wrong or damage which he may have sustained by the act or default in respect of which such penalty is imposed, or in or towards payment of the expenses of the proceedings.

Application of penalties.

SCHEDULE.

Form.

1	2	3	4	5	6	7	
Name of Vessel.	Name of Master.	Tons per Register.	Port of Embarkation.	Number.	Port at which Passengers have contracted to be landed.	Date of Departure.	—

26th September, 1860.

No. 3 of 1861.

An Ordinance to authorize the formation of Volunteer Corps in this Colony, and to provide for the good order and discipline thereof.

(*As amended by No. 9 of 1881, No. 7 of 1884, No. 17 of 1890, and No. 3 of 1899.*)

(*See No. 8 of 1881, No. 9 of 1881, No. 7 of 1884, No. 11 of 1889, No. 17 of 1890, No. 2 of 1892, and No. 3 of 1899.*)

WHEREAS certain of Her Majesty's loyal subjects are desirous of associating and enrolling themselves as military corps, and it is expedient to authorize the Governor to accept their services, and to provide for the establishment, maintenance, good order, and discipline of the said corps: It is enacted as follows:

Preamble.

Digitized by Google

Volunteer Corps.

Commencement of Ordinance.

1 This Ordinance shall come into operation on such day as shall be mentioned in the Proclamation by the Governor in the *Government Gazette* of this island, notifying that the same has been confirmed by Her Majesty.

Interpretation clause.

[*§ 3, 3 of 1899*]

1 (*a*) *In this Ordinance, unless the context otherwise requires:*

The term "commanding officer of the corps" or "commanding officer of the regiment" means the commandant of the volunteer force in Ceylon.

Governor to accept services of volunteers and to issue commissions to officers.

2 Whenever any number of persons not less than thirty shall, by petition addressed to the Governor, express their willingness to form themselves into a corps and to submit to the provisions of this Ordinance, and to such rules and regulations as shall be made in pursuance of the powers given by it, and shall pray the Governor to accept their services as volunteers and to permit their enrolment, it shall be lawful for the Governor, if he shall see fit so to do, to grant their petition and to signify his assent by Proclamation to be published in the *Government Gazette*, and to issue commissions appointing the persons named therein to be the officers of the corps and the commanding officer thereof, and, if need be, to join different corps into regiments, and to appoint the commanding officers thereof, under such conditions and according to such regulations as may be approved by the Governor.

Governor may disband corps or remove any member.

Proviso.

3 The Governor may disband any corps enrolled under the provisions of this Ordinance, or any part thereof, or remove from the corps any member thereof, whenever he shall think it necessary or proper so to do: Provided, however, that the whole or part so disbanded, or the member removed, shall remain subject to the liabilities imposed upon such as shall be disbanded or removed by this Ordinance, or by any rules or regulations to be made in pursuance of the powers given by it.

Governor may call out volunteer corps, and when called out it must be under the orders of the officer commanding the forces.

4 The Governor may call out the volunteer force or any part thereof whenever occasion may require, and when it is so called out it shall be placed and be liable to act under the orders of the senior officer in command of Her Majesty's troops in this colony.

5, 6 Repealed by No. 9 of 1881.

Oath to be taken by volunteers.

7 Every person enrolled in any corps of volunteers, including the officers, shall, as soon as possible, take the following oath, or if he be not a Christian make the following affirmation, which oath or affirmation shall be administered by any justice of the peace having jurisdiction in the place where such oath shall be taken:

> I, *A. B.*, do sincerely promise and swear (*or* do solemnly, sincerely, and truly affirm and declare, *as the case may be*) that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, her heirs and successors, and that I will faithfully serve Her Majesty in Ceylon for the defence thereof against all her enemies and opposers whatever.

Digitized by Google

8 The commanding officer of each corps shall appoint the non-commissioned officers necessary for the due working of the said corps. Appointment of non-commissioned officers.

9 Every person shall be deemed an effective member of the volunteer corps who is enrolled and serves as such for the time and in the manner directed by the rules and regulations, and shall be duly returned and certified as such by the commanding officer of the corps. Who are effective members of the corps.

10 *Every volunteer corps shall be liable to be inspected at least once a year by the officer commanding Her Majesty's regular forces, or by a field officer authorized thereto by the Governor.* *Inspection.* [§ *4, 3 of 1899*]

11 Repealed by No. 3 of 1899.

12 General courts martial shall be convened and appointed by the commanding officer of the regiment, if there be one, with the sanction of the Governor, or by the Governor, if there be no commanding officer of the regiment, for the trial of military offences of which any volunteer shall be guilty whilst on actual duty; and no sentence of such court martial shall be put into execution until after a report of the whole proceedings shall have been made to and the sentence shall have been confirmed by the Governor. The Governor may commute any such sentence for a less punishment, or pardon the offender. Appointment of and sentences by general courts martial.

13 *General courts martial shall consist of not less than five commissioned officers of the volunteer force.* *General courts martial.* [§ *5, 3 of 1899*]

14 *Regimental courts martial may be convened by the commanding officer, and shall consist of not less than three commissioned officers of the force.* *Regimental courts martial.* [§ *6, 3 of 1899*]

15 The proceedings of courts martial convened under this Ordinance shall be conducted according to the laws and customs applicable to courts martial held under the Mutiny Act and Articles of War, except so far as the same are inconsistent with the provisions of this Ordinance. Proceedings of courts martial. [*See No. 8 of 1881*]

16 *Every member of the volunteer force enrolled according to the provisions of this Ordinance shall for all military offences of which he shall be guilty, when warned for actual duty in cases of actual invasion, or of any appearance of any enemy on the coasts of Ceylon, or of rebellion or insurrection arising or existing within the same, or whenever the volunteer force or any part thereof has been called out by the Governor under the power in that behalf hereinbefore provided, or whilst on actual duty in such cases as aforesaid, be subject to "The Army Act, 1881."* *Volunteers guilty of military offences in cases of invasion, &c., to be subject to Army Act, 1881.* [§ *7, 3 of 1899*]

17 If in cases other than those referred to in the preceding section any member of such corps shall be guilty of any military offence except as is hereinafter excepted, he shall be liable, upon conviction by a general court martial, to a fine not exceeding £10, or to simple dismissal from the corps, or to dismissal from the corps as unworthy to belong to it. Volunteers guilty of military offences in other cases to be subject to fine and dismissal.

Digitized by Google

Volunteers not attending drill or parade, or guilty of minor offences, subject to fine.

18 If any member of such corps shall without reasonable excuse neglect to attend drill or parade at such times as may be appointed for that purpose, or shall be guilty of any neglect of duty or misconduct, or other military offence which in the judgment of the commanding officer of the corps will be sufficiently punished by a small fine, he shall be liable to pay such sum, not exceeding £5, as a regimental court martial shall adjudge: Provided that the commanding officer of the corps may, instead of trying any such member so guilty as aforesaid by a regimental court martial, summarily order him to pay a fine not exceeding five shillings.

When commanding officer may order volunteers into custody.

19 Every person who shall not during the time of training and exercise, or of being under arms, or wearing the clothing or accoutrements of the corps, conduct himself in a decent and orderly manner, or shall not obey the lawful command of the commanding officer thereof, may be ordered by him into the custody of any persons belonging to such corps for the time during which it shall remain under arms.

Dismissal for non-payment of fine.

20 In case any member of such corps shall neglect or refuse to pay any fine to which he shall be sentenced by any court martial, within such time as shall be fixed by such court martial, he may be dismissed by the commanding officer of the corps from such corps, and every dismissal shall be recorded and reported to the Governor: Provided that such dismissal shall be no bar to the recovery of the fine in the manner hereinafter provided.

When volunteers may quit the corps.

21 Any volunteer may at any time, except whilst on actual duty, quit the corps, and he shall accordingly be struck out of the muster roll of such corps in the manner and under the conditions hereinafter mentioned.

Conditions of quitting.

22 No person shall be entitled to quit any corps without giving fourteen days' notice in writing of his intention to the commanding officer of the corps, unless such commanding officer shall dispense with such notice: Provided that it shall be lawful for the Governor to allow any volunteer to quit the corps at any time and under any circumstances, subject to such conditions as the Governor shall see fit to impose.

Volunteers when called out on service to be entitled to pay and quarters.

23 All persons enrolled in any corps of volunteers when called out on actual duty by the Governor shall be entitled to pay in such manner and after such rates and conditions, and to be quartered and billeted in like manner in every respect, and under and subject to the same regulations, as Her Majesty's other forces, as far as the same shall by the Governor be deemed applicable to the volunteer corps.

Relief to families of volunteers called out on service.

24 All persons enrolled, and who shall when called out on such actual duty as aforesaid leave families unable to support themselves, shall during the period of their absence or service on military duty be entitled to relief for their wives and families, and it shall be lawful for the Governor to fix the amount of such relief.

Digitized by Google

Volunteer Corps.

25 Whenever any person enrolled as aforesaid shall be called out on actual duty as aforesaid away from his place of residence, he shall be entitled to receive, if willing to do so, his travelling expenses from and to such residence, and it shall be lawful for the Governor to fix the rate and amount of such expenses.

When travelling expenses are payable to volunteers.

26 All commissioned officers of volunteers who shall be disabled when called out on actual duty as aforesaid, and all non-commissioned officers, drummers, and private men of any corps of volunteers so disabled, and the widows and families of all such commissioned officers, non-commissioned officers, drummers, and private men of any corps of volunteers killed in such actual duty, shall be entitled to such pensions as shall be fixed by the Governor.

Pensions to volunteers disabled on service and to the widows and families of those killed on service.

27 No toll shall be demanded or taken for the horses, animals, or conveyances of volunteers going to or returning from the performance of any military duty, or for any vehicles employed in conveying the arms, ammunition, accoutrements, uniforms, provisions, and baggage which are *boná fide* the property of the corps and to be used by the volunteers: Provided that in the former case every volunteer claiming such exemptions be at the time dressed in the uniform of his corps, or armed and accoutred according to the regulation provided for such corps; and in the latter case the person or persons in charge of the vehicles shall present, at the time of claiming the exemption, a certificate from the commanding officer of the corps or detachment and signed by him, setting out that the property conveyed by the vehicles is *boná fide* the property of the corps, and to be used by the volunteers as such.

Exemption from toll.

28 Letters being strictly on Her Majesty's service, and bearing on the outside or cover thereof the signature of any commissioned officer of the volunteer corps from whom they shall have been sent, and also words or letters indicating that such letters are on Her Majesty's service only, will be received and forwarded by any post office in the island free of postage. And should any private note or private communication of any sort or kind whatever be written or printed on or contained in any such official letter, it shall be deemed an offence, and any person found guilty thereof will be liable on conviction to any fine not exceeding £5.

Exemption from postage.

29 All arms, ammunition, accoutrements, or uniforms consigned to any officer of the volunteer corps, being the property of the corps, are to be passed by the customs duty free, on the officer to whom they are consigned delivering to the collector of customs a list of the articles, and certifying at the foot thereof that they are *boná fide* the property of the corps: Provided always that all such property shall, in case of the sale thereof after importation, be liable to and be charged with such and the same duties of customs as may by law be payable or charged on the like property, not being the property of the volunteer corps.

Exemption from customs duty.

Digitized by Google

Place of deposit for arms and persons to take care of them provided at public expense.
[§ *8, 3 of 1899*]

30 *The commanding officer of any corps receiving any arms or accoutrements supplied at the public expense or by subscription or from the funds of the corps may, with the consent of the Governor, appoint proper places for depositing and safe-keeping of the arms and accoutrements of the corps, and proper persons to repair and keep such arms in good condition; and all reasonable expenses incurred in placing and keeping them clean and in proper repair, order, and condition shall be paid from the General Treasury, upon warrant to be for that purpose issued by the Governor: Provided that it shall be lawful for the Governor to appoint any person or persons to inspect and report upon the state and condition of such arms and accoutrements, and to audit the account, and order such sums as expenses as he shall consider right.*

Property of volunteer corps to be vested in commanding officer.

31 All money subscribed by or for the use of any corps, and all arms, stores, and ammunition, or other articles whatever belonging to or used by any such corps, not being the property of any particular individual, shall be vested in the commanding officer thereof for all purposes of indictment or action, criminal or civil, and shall for such purpose be deemed to be his property, and may be so described in an indictment, or may be sued for or recovered as such in any action; and no action shall be abated by the death, resignation, or removal of any commanding officer, but the same may be proceeded in by the succeeding commanding officer.

Volunteers to give up arms, &c., on quitting or being dismissed the corps.
[§ *9, 3 of 1899*]

32 *Every person who shall have received any arms, ammunition, accoutrements, or uniform, or other articles belonging to Government, or which shall have been furnished from the public stores or at the public expense, or at the expense of any subscription for providing such articles, or from the funds of the corps, shall, upon his quitting such corps, or upon dismissal therefrom, or whenever he shall be required so to do by the commanding officer, or whenever the said corps shall be disbanded, deliver up to the commanding officer, or such person as he shall appoint to receive the same, all such arms, ammunition, accoutrements, uniform, or other article, in good order and condition, reasonable wear and tear thereof only excepted, and in default thereof he shall pay such sum of money as shall be adjudged by the commanding officer.*

Volunteer liable to fines and subscriptions though he quits the corps, or is dismissed therefrom, or corps be disbanded.

33 Every person quitting his corps, or being dismissed therefrom, or whenever the said corps shall be disbanded, shall nevertheless remain liable to all subscriptions and fines incurred by him under any of the provisions of this Ordinance, or any of the rules and regulations of his corps.

Sums due by volunteers how recoverable.
[§ *10, 3 of 1899*]

34 *If any volunteer shall neglect or refuse, on demand made for that purpose, to pay any sum which he may be ordered to pay by the commanding officer, or which he may be condemned to pay by the sentence of a court martial, or any sum subscribed or required by any rules of such corps to be subscribed by him towards any expenses thereof, in such case any police magistrate residing in or near to the place in which such corps shall be, on application made for that purpose by any*

Digitized by Google

commanding or field officer, or adjutant or serjeant-instructor, under any order of the commanding officer of any such corps, may direct such sum to be paid as a fine, on a day to be named in an order to be for that purpose made by such police court and served upon such volunteer; and in default of his so paying the sum due by him the police court shall and may proceed to recover the same in such and the same manner as any fine adjudged by police courts against any person is recovered.

Fines, &c., payable to commanding officers.

35 All sums levied as fines, penalties, or otherwise under the provisions of this Ordinance shall be paid to the commanding officer of the particular corps in respect of which such sums have been recovered, and shall go to the general stock of such corps, to be applied in the general expenses thereof in like manner as any subscription or money may be applied; or where there shall be no subscription or stock, then to any such purpose as the commanding officer may think fit.

Notice of action and limitation thereof.

36 No suit, action, or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Ordinance, or for any act done in the real or alleged discharge of his duty as a member of the volunteer corps, without a month's previous notice in writing being given him of the intended action and of the cause thereof, nor after tender of sufficient amends, nor after the expiration of three months from the accrual of the cause of action or other proceeding.

Certificate of commanding officer to be evidence of enrolment.

37 A certificate of enrolment in a volunteer corps signed by the commanding officer thereof shall be *primâ facie* evidence of such enrolment without any further proof.

Penalty for hindering volunteers or injuring their property.

38 If any person shall knowingly and wilfully hinder or obstruct or interfere with the march or evolutions of volunteers lawfully assembled, or injure the targets, shooting sheds, parade drill ground, rifle range, or other the property belonging to or in the charge of any volunteer corps, such person shall be guilty of an offence and subject to a fine not exceeding £5.

Penalty for knowingly buying or receiving arms, &c.

39 If any person shall knowingly and wilfully buy, take in exchange, or otherwise receive any arms, accoutrements, or clothing, or any public stores or ammunition delivered for the use of any corps of volunteers, he shall for every offence be liable to a fine not exceeding five pounds.

Penalty for assaulting or resisting volunteers in the execution of their duty.

40 Whosoever assaults or resists, or aids or assists any person in assaulting or resisting, or incites any person to assault or resist, any volunteer in the execution of his duty, shall be guilty of an offence, and be liable on conviction to a fine not exceeding twenty pounds, or to imprisonment, with or without hard labour, for any term not exceeding six months.

4th September, 1861.

Digitized by Google

No. 8 of 1881.

An Ordinance to amend the Ordinance No. 3 of 1861, intituled "An Ordinance to authorize the formation of Volunteer Corps in this Colony, and to provide for the good order and discipline thereof."

Preamble.

WHEREAS by the 15th and 16th clauses of the Ordinance No. 3 of 1861, intituled "An Ordinance to authorize the formation of Volunteer Corps in this Colony, and to provide for the good order and discipline thereof," reference is made to the Mutiny Act and Articles of War :

And whereas the discipline and regulation of Her Majesty's Forces are now provided for by "The Army Discipline Act, 1879," and by "The Army Act, 1881":

And whereas "The Army Act, 1881," will come into force in this colony on the Twenty-seventh day of February, 1882, on and from which date "The Army Discipline Act, 1879," will be repealed, and it is therefore necessary to amend the said Ordinance No. 3 of 1861 in manner hereinafter appearing : It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows :

Courts martial and military offences of volunteers to be subject to "The Army Discipline Act, 1879," and "The Army Act, 1881," instead of "The Mutiny Act and Articles of War" as heretofore.

1 Wherever mention is made in the said Ordinance of "The Mutiny Act and Articles of War," the same shall be taken and construed to refer to "The Army Discipline Act, 1879," until the said last mentioned Act shall have been repealed, and thenceforward to "The Army Act, 1881."

14th December, 1881.

No. 9 of 1881.

An Ordinance further to amend the Ordinance No. 3 of 1861, intituled "An Ordinance to authorize the formation of Volunteer Corps in this Colony, and to provide for the good order and discipline thereof.

Preamble.

WHEREAS by the 5th and 6th clauses of the Ordinance No. 3 of 1861, intituled "An Ordinance to authorize the formation of Volunteer Corps in this Colony, and to provide for the good order and discipline thereof," it is provided that rules and regulations of such corps of volunteers shall be made by the persons forming such corps, or the majority thereof, for certain purposes therein mentioned, which rules and regulations, when allowed by the Governor, with the consent of the Executive Council, and published in the *Government Gazette*, shall be valid and binding upon the persons belonging to the said corps and all other persons affected thereby :

And whereas it is desirable that powers should be given to the Governor, with the advice of the Executive Council, to make rules and regulations for the government of volunteer corps now or hereafter to be established under the said Ordinance, and also to repeal the said 5th and 6th clauses of the said Ordinance, and to empower such volunteer corps to make rules and regulations with regard to the matters hereinafter particularly mentioned : Be it enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows :

Repealing clause.

1 The 5th and 6th clauses of the said Ordinance shall be and the same are hereby repealed.

Digitized by Google

2 The Governor, with the advice of the Executive Council, may from time to time make regulations respecting anything required to be done or provided by the said Ordinance, and also such regulations as may seem fit, not being inconsistent with any of the provisions of the said Ordinance, respecting—

Governor in Council may make regulations for certain objects.

(*a*) The appointment and promotion of officers;

(*b*) The assembling and proceedings of courts of inquiry to inquire into and report on any matter connected with the government or discipline of a volunteer corps;

(*c*) For the full execution of the said recited Ordinance No. 3 of 1861, and the general government and discipline of any volunteer force;

and may alter or repeal any such regulations, and may call for such returns as may from time to time seem requisite; and such regulations or alterations regulating the same, when published in the *Gazette*, shall have the full force and effect of law.

3 The officers and volunteers belonging to a volunteer corps may from time to time make rules for the management of the property, finances, and civil affairs of the corps, and may alter or repeal any such rules, but any such rules shall not have effect unless and until the commanding officer of the corps thinks fit to transmit the same for the approval of the Governor, with the advice of the Executive Council, and such approval is notified to the commanding officer of the corps, to be by him further communicated to the corps, whereupon the rules so approved shall be binding on all persons.*

Officers and volunteers may make rules for certain objects, subject to approval of Governor in Council.

4 A copy of the rules in print or writing, or partly in print or partly in writing, certified under the hand of the commanding officer as a true copy of the rules, whereof the approval of the Governor, with the advice of the Executive Council, has been notified as aforesaid, shall be conclusive evidence of the rules of the corps.

Copies certified by commanding officer conclusive evidence of rules.

5 This Ordinance shall commence and take effect from and after the date upon which Her Majesty's assent thereto shall have been proclaimed in the *Government Gazette* of the colony and not sooner.†

Date of Ordinance coming into operation.

Nothing herein contained shall affect any right or prerogative of Her Majesty, her heirs and successors.

Reservation of Her Majesty's prerogative.

14th December, 1881.

No. 7 of 1884.

An Ordinance to further amend the Ordinance No. 3 of 1861, intituled "An Ordinance to authorize the formation of Volunteer Corps in this Colony, and to provide for the good order and discipline thereof."

Preamble.

WHEREAS by the 4th section of Ordinance No. 3 of 1861, intituled "An Ordinance to authorize the formation of Volunteer Corps in this Colony, and to provide for the good order and discipline thereof," the Governor is empowered to call out the volunteer force or any part thereof whenever occasion may require: And whereas no provision is made by the said Ordinance to subject

* Power to enforce rules given by section 1 of No. 17 of 1890.

† Proclaimed the 28th day of March, 1882.

Digitized by Google

the members of the volunteer corps, enrolled under the said Ordinance, to "The Army Act, 1881," when so called out by the Governor as aforesaid :

And whereas it is expedient to amend the said Ordinance in this respect : It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows :

Amendment of section 16 of Ordinance No. 3 of 1861.

1 Section 16 of the Ordinance No. 3 of 1861, intituled "An Ordinance to authorize the formation of Volunteer Corps in this Colony, and to provide for the good order and discipline thereof," is hereby amended, and the said section shall from and after the coming into operation of this Ordinance be construed and read as though the words "or whenever the volunteer force or any part thereof has been called out by the Governor under the power in that behalf hereinbefore provided" had been inserted in the said 16th section between the sentence "or of rebellion or insurrection arising or existing within the same" and the sentence "or whilst on actual duty in such cases as aforesaid."

Ordinance not to affect amendment of Ordinance No. 3 of 1861 by Ordinance No. 8 of 1881.

2 Nothing herein contained shall affect the amendment of the said 16th section of the said Ordinance effected by the Ordinance No. 8 of 1881, intituled "An Ordinance to amend the Ordinance No. 3 of 1861, intituled 'An Ordinance to authorize the formation of Volunteer Corps in this Colony, and to provide for the good order and discipline thereof.' "

Short title.

3 This Ordinance may be cited as "The Volunteer Corps Amendment Ordinance, 1884."

When Ordinance to take effect.

4 This Ordinance shall commence and take effect from and after the date upon which Her Majesty's assent thereto shall have been proclaimed* in the *Government Gazette* of the colony and not sooner.

4th February, 1884.

No. 11 of 1889.

An Ordinance relating to Volunteers.

Preamble.

WHEREAS it is expedient to exempt persons enrolled in any volunteer corps in this island from the liability to labour or to pay any tax in labour or in money in commutation of such labour : Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows :

Interpretation clause : "Local authority."

1 In this Ordinance "local authority" shall mean the district committee, municipal council, or local board authorized by law to enforce the liability to labour or to impose a tax payable in labour or in money in commutation of such labour.

Volunteers exempted from liability to labour or to pay any tax in labour or in money in commutation of such labour.

2 From and after the passing of this Ordinance all commissioned officers, non-commissioned officers, and private men of any corps of volunteers in this island shall be, and they are hereby, exempted from the liability to labour imposed by section 49 of Ordinance No. 10 of 1861, and from any tax payable in six days' labour or in money in commutation of such labour to any municipal council under the Ordinance No. 7 of 1887 or to any local board under the Ordinance No. 9 of 1887.†

Proviso.

Provided that in the case of such non-commissioned officers and private men they shall not be entitled in any year to such exemption as aforesaid, unless it shall have been previously certified to the local

* Proclaimed the 2nd day of May, 1884. † Repealed by No. 13 of 1898.

Digitized by Google

authority, by the officer commanding such corps, or by the adjutant or any other commissioned officer specially authorized thereto by such officer commanding, that such non-commissioned officers and private men are *bonâ fide* efficient volunteers.

8th October, 1889.

No. 17 of 1890.

An Ordinance relating to Volunteers.

WHEREAS it is expedient to provide for the better protection of the arms, accoutrements, and uniform which are from time to time issued to volunteers, and to empower the officers and volunteers belonging to a volunteer corps to make and enforce rules for the purposes hereinafter mentioned: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1 It shall be lawful for the officers and volunteers belonging to a volunteer corps— Purposes for which rules may be made.

(1) To make, and when made to alter and repeal, rules—

(*a*) To prevent the negligent or improper custody, handling, or use by any volunteer of any arms, accoutrements, or uniform;

(*b*) To prevent the using or wearing of any arms, accoutrements, or uniform by any volunteer, except when he is engaged in or about the performance of his duties;

(*c*) To provide against a volunteer loading a rifle contrary to orders, or firing out of turn, or discharging a rifle accidentally, or pointing a rifle, loaded or unloaded, or a bayonet or sword bayonet, at any person without lawful orders;

(*d*) To provide for the assessment of any loss or damage caused by any act or acts mentioned in (*a*) or (*b*).

(2) To impose, by any rules made under this section or under section 3 of the Ordinance No. 9 of 1881, such reasonable fines as they think fit, not exceeding ten rupees, for breaches of such rules. Rules now enforced.

2 The enactments of section 3 and section 4 of the Ordinance No. 9 of 1881, which apply to rules made under the former section, shall govern in every respect the rules made under section 1 of this Ordinance. Rules governed by Ordinance No. 9 of 1881.

3 In section 34 of the Ordinance No. 3 of 1861 the word "fine" shall be substituted for the word "penalty" and for the words "pecuniary penalty," and the said section shall be read and construed accordingly. Section 34 of Ordinance No. 3 of 1861 amended.

4 Any sum assessed against or any fine imposed upon any volunteer under this Ordinance shall be entered in a book kept for that purpose by direction of the commanding officer, and shall be recovered through the police court in the manner provided in section 34 of the Ordinance No. 3 of 1861, as herein amended, in respect of any sum in the said section mentioned; and all such assessments and fines shall be paid into and shall form part of the general volunteer fund. Assessments and fines how recovered and appropriated.

5 This Ordinance, so far as is consistent with the tenor thereof, shall be read as one with the Ordinances No. 3 of 1861 and No. 9 of 1881. To be read with Ordinances No. 3 of 1861 and No. 9 of 1881.

19th November, 1890.

Digitized by Google

No. 2 of 1892.

An Ordinance for the enrolment of Coast Defence Volunteers.

Preamble.

WHEREAS it is expedient to empower the Governor, in the event of anticipated war, to raise a special force of coast defence volunteers to assist in the service of submarine mine defences, or in any measures involving the employment of steamers, launches, boats, or other vessels: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Short title.

1 This Ordinance may be cited as "The Coast Defence Volunteers Ordinance, 1892."

Governor may raise a coast defence volunteer force in case of apprehension of war between Her Majesty and any foreign state.

2 It shall be lawful for the Governor, if and whenever the immediate outbreak of war between Her Majesty and any foreign state is apprehended, or after such war has been declared, to raise a volunteer force of such strength as he may think fit, to be styled "Coast Defence Volunteers," for special services in connection with submarine mines, or the management of steamers, launches, boats, or other vessels which may be required for the purpose of the defence of this colony.

Engagement of coast defence volunteer force.

3 Such coast defence volunteers shall be engaged for a period of three months if war shall not be declared within that period, and if war shall be declared within that period then further for the period of the war; but the Governor shall have power to dismiss any member thereof, or to disband the force or any part of the force, whenever he may see fit.

Governor may prescribe uniform for coast defence volunteers.

4 The Governor shall prescribe a distinctive uniform for such coast defence volunteers.

Governor may fix rate of pay.

5 The Governor shall fix the rate of pay for all members of the force, and shall lay down the proportion of the several ranks as he may think fit.

"Imperial Army Act, 1881," to apply to coast defence volunteers.

6 The provisions of "The Imperial Army Act, 1881," and of any other Imperial Act for the time being amending or superseding the same, shall apply to the coast defence volunteers from the date of their enrolment.

Provisions of the Ordinances No. 3 of 1861, No. 8 of 1881, No. 9 of 1881, No. 11 of 1889, and No. 17 of 1890 to apply to coast defence volunteers.

7 The provisions of the Ordinances No. 3 of 1861, No. 8 of 1881, No. 9 of 1881, No. 11 of 1889, and No. 17 of 1890, relating to volunteers, so far as they are not inconsistent with the foregoing provisions, shall apply to the coast defence volunteers as if they were a volunteer corps formed under the said Ordinances, and the coast defence volunteers shall, for the purposes of the said Ordinances, be deemed to have been called out and to be on active service from the date of their enrolment.

1st June, 1892.

No. 3 of 1899.

The Volunteer Amendment Ordinance, 1899.

Preamble.

WHEREAS it is expedient to amend Ordinance No. 3 of 1861, intituled "An Ordinance to authorize the formation of Volunteer Corps in this Colony, and to provide for the good order and discipline thereof," and "The Volunteer Reserve Ordinance, 1890," in certain particulars: Be it therefore enacted by the Governor of Ceylon,

Digitized by Google

by and with the advice and consent of the Legislative Council thereof, as follows :

1 This Ordinance may be cited for all purposes as "The Volunteer Amendment Ordinance, 1899." Short title.

2 Section 11 of Ordinance No. 3 of 1861 is hereby repealed. Repeal.

3 Between sections 1 and 2 of Ordinance No 3 of 1861 the following section shall be inserted and numbered 1 *a*: Insertion of section between 1 and 2 of Ordinance No. 3 of 1861.

1 *a*. In this Ordinance, unless the context otherwise requires : Interpretation clause.

The term "commanding officer of the corps" or "commanding officer of the regiment" means the commandant of the volunteer force in Ceylon.

4 For section 10 of Ordinance No. 3 of 1861 the following shall be substituted : Amendment of section 10 of Ordinance No. 3 of 1861.

10. Every volunteer corps shall be liable to be inspected at least once a year by the officer commanding Her Majesty's regular forces, or by a field officer authorized thereto by the Governor. Inspection.

5 For section 13 of Ordinance No. 3 of 1861 the following shall be substituted : Amendment of section 13 of Ordinance No. 3 of 1861.

13. General courts martial shall consist of not less than five commissioned officers of the volunteer force. General courts martial.

6 For section 14 of Ordinance No. 3 of 1861 the following shall be substituted : Amendment of section 14 of Ordinance No. 3 of 1861.

14. Regimental courts martial may be convened by the commanding officer, and shall consist of not less than three commissioned officers of the force. Regimental courts martial.

7 For section 16 of Ordinance No. 3 of 1861 the following shall be substituted : Amendment of section 16 of the Ordinance No. 3 of 1861.

16. Every member of the volunteer force enrolled according to the provisions of this Ordinance shall for all military offences of which he shall be guilty, when warned for actual duty in cases of actual invasion, or of any appearance of any enemy on the coasts of Ceylon, or of rebellion or insurrection arising or existing within the same, or whenever the volunteer force or any part thereof has been called out by the Governor under the power in that behalf hereinbefore provided, or whilst on actual duty in such cases as aforesaid, be subject to "The Army Act, 1881." Volunteers guilty of military offences in cases of invasion, &c., to be subject to Army Act, 1881.

8 For section 30 of Ordinance No. 3 of 1861 the following shall be substituted : Amendment of section 30 of Ordinance No. 3 of 1861.

30. The commanding officer of any corps receiving any arms or accoutrements supplied at the public expense or by subscription or from the funds of the corps may, with the consent of the Governor, appoint proper places for depositing and safe-keeping of the arms and accoutrements of the corps, and proper persons to repair and keep such arms in good condition ; and all reasonable expenses incurred in placing and keeping them clean and in proper repair, order, and condition shall be paid from the General Treasury, upon warrant to be for that purpose issued by the Governor : Provided that it shall be lawful for the Governor to appoint any person or persons to inspect and report upon the state and condition of such arms and accoutrements, and to audit the account, and order such sums as expenses as he shall consider right. Place of deposit for arms and persons to take care of them provided at public expense.

9 For section 32 of Ordinance No. 3 of 1861 the following shall be substituted : Amendment of section 32 of Ordinance No. 3 of 1861.

32. Every person who shall have received any arms, ammunition, accoutrements, or uniform, or other articles belonging to Government, or which shall have been furnished from the public stores or at the public expense, or at the expense of any subscription for Volunteers to give up arms, &c., on quitting

Digitized by Google

or being dismissed the corps.

providing such articles, or from the funds of the corps, shall, upon his quitting such corps, or upon dismissal therefrom, or whenever he shall be required so to do by the commanding officer, or whenever the said corps shall be disbanded, deliver up to the commanding officer, or such person as he shall appoint to receive the same, all such arms, ammunition, accoutrements, uniform, or other articles, in good order and condition, reasonable wear and tear thereof only excepted, and in default thereof he shall pay such sum of money as shall be adjudged by the commanding officer.

Amendment of section 34 of Ordinance No. 3 of 1861.

Sums due by volunteers how recoverable.

10 For section 34 of Ordinance No. 3 of 1861 the following shall be substituted:

34. If any volunteer shall neglect or refuse, on demand made for that purpose, to pay any sum which he may be ordered to pay by the commanding officer, or which he may be condemned to pay by the sentence of a court martial, or any sum subscribed or required by any rules of such corps to be subscribed by him towards any expenses thereof, in such case any police magistrate residing in or near to the place in which such corps shall be, on application made for that purpose by any commanding or field officer, or adjutant or serjeant-instructor, under any order of the commanding officer of any such corps, may direct such sum to be paid as a fine, on a day to be named in an order to be for that purpose made by such police court and served upon such volunteer; and in default of his so paying the sum due by him the police court shall and may proceed to recover the same in such and the same manner as any fine adjudged by police courts against any person is recovered.

Amendment of section 3 of Ordinance No. 16 of 1890.

Proviso.

11 To section 3 of Ordinance No. 16 of 1890 the following proviso shall be added:

Provided that the Governor may in special cases sanction the enrolment in or appointment to the volunteer reserve, or the transfer from the active list to the reserve, of officers and men living within a radius of ten miles from the headquarters of a reserve district.

Amendment of section 4 of Ordinance No. 16 of 1890.

12 For section 4 of Ordinance No. 16 of 1890 the following shall be substituted:

4. Every person who desires to be admitted into the volunteer reserve under the regulations hereinafter mentioned shall apply in writing to the adjutant to be duly enrolled as by those regulations provided, and shall upon his enrolment being sanctioned, unless he be transferred direct from the active list to the reserve, take the following oath, or, if he be not a Christian, make the following affirmation, before any justice of the peace having jurisdiction in the place where such oath or affirmation is taken or made:

I, ———, do sincerely promise and swear [*or* truly affirm and declare] that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, her heirs and successors according to law, and that I will faithfully serve Her Majesty in Ceylon for the defence thereof against all her enemies and opposers whatever.

Addition of a sub-section to section 6 of Ordinance No. 16 of 1890.

Certificate in case of members of reserve permitted to reside within ten-mile radius.

13 To section 6 of Ordinance No. 16 of 1890 the following subsection shall be added:

(3) In the case of members of the reserve who have been specially permitted to reside within a ten-mile radius from the headquarters of a reserve district, the certificate to be forwarded to the adjutant under sub-section (1) hereof shall be in the form C in the schedule hereto instead of in the form A.

Amendment of section 9 of Ordinance No. 16 of 1890.

14 Section 9 of Ordinance No. 16 of 1890 shall be amended by adding at the end thereof the following words:

unless the Governor has specially sanctioned his residing within a ten-mile radius from the headquarters of a reserve district.

Digitized by Google

15 For section 10 of Ordinance No. 16 of 1890 the following shall be substituted :

Amendment of section 10 of Ordinance No. 16 of 1890.

Efficiency.

10. Every member of the volunteer reserve, unless he be a commissioned officer, must render himself efficient at least once in every three years by attending and going through such course of musketry as shall from time to time be laid down by the commanding officer, unless such member shall be specially exempted by the commanding officer from attending and going through such musketry course.

16 The schedule hereto is substituted for the schedule to Ordinance No. 16 of 1890.

Amendment of schedule to Ordinance No. 16 of 1890.

SCHEDULE.

Form A.

I hereby certify that ———, No. —— of the Volunteer Reserve, has been continuously stationed during the last six months at ———, outside a radius of ten miles from ———, the headquarters of the Volunteer Reserve District within which the said ——— resides; that he has had no opportunity of attending the course of musketry laid down for the Volunteer Reserve, and that to the best of my belief he is within the prescribed limits of age and physically fit for military service.

Given under my hand at ———, the ——— day of ———, 189—.

Signature ———.

Form B.

I, ———, No. —— of the Volunteer Reserve, do swear (*or* solemnly, sincerely, and truly declare and affirm) that during the last six months I have been continuously stationed at ———, outside a radius of ten miles from ——— , the headquarters of the Volunteer Reserve District within which I reside ; that I have had no opportunity of attending the course of musketry laid down for the Volunteer Reserve, and that I am within the prescribed age, and physically fit for military service.

Sworn (*or* affirmed)
this ——— day of ———, 189—. *Signature* ———.

Before me, ———,
Justice of the Peace.

Form C.

I hereby certify that ———, No. —— of the Volunteer Reserve, has been continuously stationed during the last six months at ———, within a radius of ten miles from ——— , the headquarters of the Volunteer Reserve District within which the said ——— resides ; that he has had no opportunity of attending the course of musketry laid down for the Volunteer Reserve, and that to the best of my belief he is within the prescribed limits of age and physically fit for military service.

Given under my hand at ———, the ——— day of ———, 189—.

Signature ———.

6th March, 1899.

Digitized by Google

No. 4 of 1861.

An Ordinance to promote the establishment of Joint Stock Companies, both with unlimited and limited liability.

(*As amended by No. 9 of 1867 and No. 3 of 1893.*)

(*See No. 4 of 1888, No. 6 of 1888, and No. 2 of 1897.*)

Preamble.

WHEREAS it is expedient to promote the establishment of certain partnerships or joint stock companies, with or without limited liability, and to provide for the due registration of the above :

It is enacted as follows :

Commencement.

1 This Ordinance shall come into operation from the date of the passing thereof.

Short title.

2 This Ordinance may be cited for all purposes as "The Joint Stock Companies' Ordinance, 1861."

Banking and insurance companies exempted.

3 This Ordinance shall not apply to persons associated together for the purposes of banking or insurance.

PART I.

Registration.

Registration.

4 The registration of companies shall be conducted as follows ; (that is to say,)

(1) The Governor may from time to time appoint such registrars, assistant registrars, clerks, and servants as he may think necessary for the registration of companies under this Ordinance, and remove them at pleasure.

(2) The Governor may, with the advice and consent of the Executive Council, make regulations with respect to the duties to be performed by any such registrars, assistant registrars, clerks, and servants as aforesaid, and may determine the place or places at which offices for the registration of companies are to be established.

(3) There shall be paid to any registrar, assistant registrar, clerk, or servant that may hereafter be employed in the registration of joint stock companies, such salary as the Governor may direct : Provided that it shall be lawful for the Governor to direct the payment to them of fees instead of salary, and to apportion such fees amongst the officers respectively as he may think fit.

(4) There shall be paid to the registrar of joint stock companies in respect of the several matters mentioned in the table marked A in the schedule hereto the several fees therein specified.

Digitized by Google

(5) Every person may inspect the documents kept by the registrar, and may require a copy or extract of any document or part of a document to be certified by the registrar, and there shall be paid for such inspection and for such certified copy or extract the respective fees specified in the said table A. Such certified copy or extract shall be *primâ facie* evidence of the matters therein contained in all legal proceedings whatever.

(6) Excepting in case the Governor shall otherwise direct, all fees authorized by and paid under this Ordinance shall be paid into the public treasury and carried to account as the Governor shall appoint.

(7) Whenever any act is herein directed to be done to or by the registrar of joint stock companies such act shall, until a registrar of joint stock companies shall have been appointed, be done to or by the registrar of the Supreme Court, who shall until such appointment have the powers and be subject to the liabilities given to and imposed upon the registrar of joint stock companies.

Part II.

Constitution and Incorporation of Companies and Associations. Registry.

Company formed by memorandum of association and registration.

5 Seven or more persons associated for any lawful purpose may, by subscribing their names to a memorandum of association, and otherwise complying with the requisitions of this Ordinance in respect of registration and incorporation, procure themselves to be formed into an incorporated company with or without limited liability.

Penalty on unregistered partnerships exceeding a certain number.
[§ 2, 9 of 1867]

6 *No company, association, or partnership consisting of more than twenty persons shall, after the passing of this Ordinance, carry on any trade or business having for its object the procurement of gain to the company, association, or partnership, or to the individual members thereof, unless it is registered as a company under "The Joint Stock Companies' Ordinance, 1861," or is incorporated or otherwise legally constituted by some Act of Parliament, royal charter, or letters patent, or is registered as a company under or by virtue or in pursuance of any Act of Parliament relating to joint stock companies ; and if any persons do so carry on business contrary to this provision, every person so acting shall be severally liable for the payment of the whole debts of the company, association, or partnership, and may be sued for the same without the joinder in the suit of any other member of the company, association, or partnership.*

Matters required to be prescribed by memorandum of association.

7 The memorandum of association shall contain the following particulars ; (that is to say,)

(1) The name of the proposed company.

Digitized by Google

(2) The town in which the registered office of the company is to be established.

(3) The objects for which the proposed company is to be established.

(4) The liability of the shareholders, whether it is to be limited or unlimited.

(5) The amount of the nominal capital of the proposed company.

(6) The number of shares into which such capital is to be divided, and the amount of each share, subject to the following restriction :

That in the case of a company formed with limited liability, and hereinafter called a limited company. the word "limited" shall be the last word in the name of the company.

Prohibition against identity of names in incorporated companies.

[§ *4, 3 of 1893*]

8 No company shall be incorporated under a name identical with that by which any other company shall have been incorporated, or so nearly resembling the same as to be calculated to deceive ; and if any company, through inadvertence or otherwise, is incorporated by a name identical with that by which a company shall have been previously incorporated, or so nearly resembling the same as to be calculated to deceive, such first-mentioned company *shall*, with the sanction of the Governor, change its name ; and upon such change being made the registrar shall enter the new name on the register in the place of the former name ; but no such alteration of name shall affect any rights or obligations of the company, or of any member thereof, or render defective any legal proceedings instituted or to be instituted by or against the company; and any legal proceedings may be continued or commenced against the company by its new name that might have been continued or commenced against the company by its former name.

Power of company to change name.

[§ *5, 3 of 1893*]

8 (*a*) *Any company with the sanction of a special resolution of the company passed in manner hereinafter mentioned, and with the approval of the Governor, testified in writing under the hand of the Colonial Secretary or of one of the assistant colonial secretaries, may change its name, and upon such change being made the registrar shall enter the new name in the register in the place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case; but no such alteration of name shall affect any rights or obligations of the company, or render defective any legal proceedings instituted or to be instituted by or against the company, and any legal proceedings may be continued or commenced against the company by its new name that might have been continued or commenced against the company by its former name.*

Form of memorandum of association.

9 The memorandum of association shall be in the form marked B in the schedule hereto, or as near thereto as circumstances admit, and it shall, when the company is

Digitized by Google

incorporated, bind the company and the shareholders therein as if there were in such memorandum contained on the part of every shareholder, his heirs, executors, and administrators, a covenant to conform to all the regulations of such memorandum, subject to the provisions of this Ordinance.

Shares to be taken by subscribers of memorandum of association.

10 Every subscriber of the memorandum of association shall take one share at least in the company. The number of shares taken by each subscriber shall be set opposite his name in such memorandum of association, and upon the incorporation of the company he shall be entered in the register of shareholders hereinafter mentioned as a shareholder to the extent of the shares he has taken.

Special regulations may be prescribed by articles of association.

11 The memorandum of association may be accompanied by, or have annexed thereto or indorsed thereon, articles of association, signed by the subscribers to the memorandum of association, and prescribing regulations for the company; but if no such regulations are prescribed, or so far as the same do not extend to modify the regulations contained in the table marked C in the schedule hereto, such last-mentioned regulations shall, so far as the same are applicable, be deemed to be the regulations of the company, and shall bind the company and the shareholders therein to the same extent as if they had been inserted in articles of association and such articles had been registered.

Effects of articles of association.

12 The articles of association shall, when the company is incorporated, bind the company and the shareholders therein to the same extent as if there were in such articles contained, on the part of every shareholder, his heirs, executors, and administrators, a covenant to conform to all the regulations of such articles, subject to the provisions of this Ordinance.

Stamp on memorandum of association and articles of association and use of printed copies.

13 The memorandum of association shall bear a stamp of five pounds, and the articles of association shall bear a stamp of one pound. Any person signing a printed copy of the memorandum of association or articles of association shall be deemed to have signed such memorandum and articles respectively, and where the proper stamp has been duly fixed on such memorandum of association or articles of association it shall not be necessary to stamp any printed copy so signed. The execution by any person of the memorandum of association or articles of association shall be attested by one witness at the least, and attestation by one witness shall be sufficient attestation.

How to obtain incorporation.

14 In order to obtain incorporation the memorandum of association, together with the articles of association (if any), must be delivered to the registrar, who shall transmit the same to the Governor, and shall cause the same to be published in the *Gazette* in three consecutive numbers. After such publication it shall be lawful for the Governor, with the advice and consent of the Executive Council, under the public seal of the island of Ceylon, to declare the company

Digitized by Google

to be incorporated, which declaration shall be endorsed on the memorandum of association, and shall be in the form following:

> Whereas the subscribers to this memorandum of association have done all things to entitle them to incorporation as a company, with limited (*or* unlimited, *as the case may be*) liability: Now know ye that we, with the advice and consent of the Executive Council, do declare the said subscribers and their successors to be incorporated as the ——— Company (Limited), under the provisions of "The Joint Stock Companies' Ordinance, 1861."

The memorandum of association, with the declaration endorsed thereon, and the articles of association, shall thereupon be returned to the registrar, who shall register the same.

Certificate of incorporation issuable to any party.

15 The registrar shall, on payment of five shillings, issue a certificate of incorporation of any company to any person applying for the same, and such certificate shall be admissible in evidence.

Effect of registration.

16 Upon the declaration of incorporation being registered as aforesaid, the subscribers to the memorandum of association, together with such other persons as may from time to time become shareholders in the company, shall thereupon be a body corporate by the name prescribed in the memorandum of association and declaration of incorporation, having a perpetual succession and a common seal, with power to hold lands, but with such pecuniary liability on the part of the shareholders as is hereinafter mentioned. The declaration of incorporation shall be conclusive evidence that all the requisitions of this Ordinance in respect of incorporation have been complied with, and the date of such declaration shall be deemed to be the date of the incorporation of the company.

Directors to be liable for debts, if dividend be paid when the company is known by them to be insolvent.

17 No dividends shall be payable except with the sanction of the directors; and if they shall declare and pay any dividend when the company is known by them to be insolvent, or any dividend the payment of which would to their knowledge render it insolvent, they shall be jointly and severally liable for all the debts of the company then existing, and for all that shall be thereafter contracted, so long as they shall respectively continue in office: Provided always that the amount for which they shall all be so liable shall not exceed the amount of such dividend, and that if any director shall object thereto and shall file his objection in writing with the clerk of the company, he shall be exempted from the said liability.

Issue of shares by company.

18 As soon as a certificate of incorporation has been granted the company may issue certificates of shares to the subscribers to the memorandum of association, and to all other persons to whom shares may be allotted, of such number and amount as may be prescribed by the memorandum of the association, but not of any greater number or amount. The shares so issued shall be movable property, and shall not be of the nature of immovable property, and each share shall be distinguished by its appropriate number.

Digitized by Google

Register of Shareholders.

19 Every company registered under this Ordinance, hereinafter referred to as "the company," shall cause to be kept in one or more books a register of shareholders, and there shall be entered therein the following particulars: **Register of shareholders.**

(1) The names, addresses, and occupations, if any, of the shareholders in the company, and the shares held by each of them, distinguishing each share by its number.
(2) The amount paid on the shares of each shareholder.
(3) The date at which the name of any person was entered in the register as a shareholder.
(4) The date at which any person ceased to be a shareholder in respect of any share.

20 Once at the least in every year a list shall be made of all persons who, on the fourteenth day succeeding the day on which the ordinary general meeting of the company, or if there is more than one ordinary general meeting in each year, the first of such ordinary general meetings, is held, are holders of shares in the company; and such list shall state the names, addresses, and occupations of all the persons therein mentioned, and the number of shares held by each of them, and shall contain a summary specifying the following particulars: **Annual list of shareholders on register.**

(1) The amount of the nominal capital of the company and the number of shares into which it is divided.
(2) The number of shares taken from the commencement of the company up to the date of the summary.
(3) The amount of calls made on each share.
(4) The total amount of calls that have been received.
(5) The total amount of calls unpaid.
(6) The total amount of shares forfeited.

The above list and summary shall be contained in a separate part of the register, and shall be in the form marked D in the schedule hereto, or as near thereto as circumstances admit; such list and summary shall be completed within seven days after such fourteenth day as is mentioned in this section, and a copy thereof, authenticated by the seal of the company, shall forthwith be forwarded to the registrar, and any person may inspect and take copies of the same, subject to the regulations under which a person is hereinafter declared to be entitled to inspect and take copies of any documents kept by the registrar.

21 If any company registered under this Ordinance makes default in keeping a register of shareholders or in sending a copy of such list and summary as aforesaid to the registrar, in compliance with the foregoing rules, such company shall incur a penalty not exceeding £5 for every day during which such default continues. **Penalty on company not keeping a proper register.**

And every director or manager of the company who shall knowingly and wilfully authorize or permit a contravention of this section shall incur the like penalty. [*§ 6, 3 of 1893*]

Digitized by Google

Restrictive definition of shareholder.

22 No notice of any trust, express or implied or constructive, shall be entered on the register, or receivable by the company; and every person who has accepted any share in a company registered under this Ordinance, and whose name is entered in the register of shareholders, and no other person (except a subscriber to the memorandum of association in respect of the shares subscribed for by him), shall for the purposes of this Ordinance be deemed to be a shareholder.

Transfer of shares.

23 The transfer of any share in the company shall be in the form marked E in the schedule hereto, or to the like effect, and shall be executed both by the transferor and transferee. The transferor shall be deemed to remain a holder of such share until the name of the transferee is entered in the register book in respect thereof.

Certificate of shares.

24 A certificate under the common seal of the company, specifying any share or shares held by any shareholder, shall be *primâ facie* evidence of the title of the shareholder to the share or shares therein specified.

Calls a debt to company.

25 The amount of calls for the time being unpaid on any share shall be deemed to be a debt due from the holder of such share to the company.

Inspection of register.

26 The register and annual list of shareholders, commencing from the incorporation of the company, shall be kept at the registered office of the company hereinafter mentioned. Except when the register is closed as hereinafter mentioned, it shall during business hours (but subject to such reasonable restrictions as the company in general meeting may impose, so that not less than two hours in each day be appointed for inspection) be open to the inspection of any shareholder *gratis*, and to the inspection of any other person on the payment of one shilling or such less sum as the company may prescribe for each inspection; and every such shareholder or other person may require a copy of such register, or of any part thereof, on payment of sixpence for every hundred words required to be copied. If such inspection or copy is refused, the company shall incur for each refusal a penalty not exceeding two pounds, and a further penalty not exceeding two pounds for every day during which such refusal continues.

[§ *7, 3 of 1893*]

And every director and manager of the company who shall knowingly authorize or permit such refusal shall incur the like penalty.

Power to close register.

27 The company may, upon giving notice by advertisement in the *Government Gazette*, close the register of shareholders for any time or times not exceeding on the whole twenty-one days in each year, and the period during which the books are closed shall not be reckoned as part of the time within which a transfer is to be registered.

Power of limited company to convert paid up shares into stock.

28 Any limited company may by special resolution convert into stock any shares which have been fully paid up, and upon such conversion being made all the provisions of this Ordinance which require or imply that the capital of the

Digitized by Google

company is divided into shares of any fixed amount, and distinguished by numbers, and which require the company to keep a register of shareholders, or to make an annual list of shareholders in the register, shall cease as to so much of the capital as has been so converted into stock.

Company to give notice of conversion of capital into stock.

29 Any company that has converted any portion of its capital into stock shall give notice of such conversion, specifying the shares so converted, to the registrar of joint stock companies, within fifteen days from the date of the last of the meetings at which the resolution was passed by which such conversion was authorized, and the registrar shall forthwith record the fact of such conversion. If such notice is not given within the period aforesaid the company shall incur a penalty not exceeding five pounds for every day during which such neglect to give notice continues.

Register of holders of stock.

30 Any company that has converted any portion of its capital into stock shall keep at the registered office of the company a register of the names and addresses of the persons for the time being entitled to such stock, and such register shall be open to inspection in the manner and subject to the penalties in and subject to which the register of shareholders is directed to be kept open.

Remedy for improper entry or omission of entry in the register of stock.

31 If the name of any person is without sufficient cause entered or omitted to be entered in the register of stock of any company, such person, or any holder of stock in the company, may apply to have the register rectified in manner directed by the 32nd section.

Remedy for improper entry or omission of entry in register.

32 If the name of any person is without sufficient cause entered or omitted to be entered in the register of shareholders of any company, such person or any shareholder of the company may, by motion in the district court of Colombo, apply to such court for an order that the register may be rectified; and the court may either refuse such application, with or without costs, to be paid by the applicant, or it may, if satisfied of the justice of the case, make an order for the rectification of the register, and may direct the company to pay all the costs of such motion and any damages the party aggrieved may have sustained; and if the company makes default or is guilty of unnecessary delay in registering any transfer of shares, they shall be responsible to any person injured by such default or delay for the amount of damage he may thereby have sustained; and the court may, in any proceeding taken under this clause, decide on any question relating to the title of any person who is a party to such proceeding to have his name entered in or erased from the register, whether such question arises between two or more holders or alleged holders of shares or stock, or between any holders or alleged holders of shares or stock and the company, and generally the court may in such proceeding decide any question that it may be necessary or expedient to decide for the rectification of the register.

Register to be evidence.

33 The register of shareholders shall be evidence of any matters by this Ordinance directed or authorized to be inserted therein.

Digitized by Google

Copies of memorandum and articles of association to be given to shareholders.

34 Copies of the memorandum of association and articles of association shall be forwarded to every shareholder at his request, on payment of the sum of one shilling for each copy, or such less sum as may be prescribed by the company.

[§ *8, 3 of 1893*]

And if any company make default in forwarding a copy of the memorandum of association, if any, to a member in pursuance of this section, the company so making default shall for each offence incur a penalty not exceeding ten rupees.

PART III.

Management and Administration of Companies. General.

Registered office of company.

35 The company shall have a registered office, to which all communications and notices may be addressed. If any company registered under this Ordinance carries on business without having such an office, it shall incur a penalty not exceeding five pounds for every day on which business is so carried on.

Notice of situation of registered office.

36 Notice of the situation of such registered office and of any change therein shall be given to the registrar and be recorded by him ; until such notice is given the company shall not be deemed to have complied with the provisions of this Ordinance with respect to having a registered office.

Publication of name by a limited company.

37 Every limited company registered under this Ordinance shall paint or affix, and shall keep painted or affixed, its name in the English, Sinhalese, and Tamil languages, on the outside of every office or place in which the business of the company is carried on, in a conspicuous position, in letters easily legible, and shall have its name in the English language engraven in legible characters on its seal, and shall have its name mentioned in the English language, in legible characters, in all notices, advertisements, and other official publications of such company, and in all bills of exchange, promissory notes, indorsements, cheques, and orders for money or goods purporting to be signed by or on behalf of such company, and in all bills of parcels, invoices, receipts, and letters of credit of the company.

Penalties on non-publication of name.

38 If any limited company registered under this Ordinance does not paint or affix, and keep painted or affixed, its name in manner aforesaid, it shall be liable to a penalty not exceeding five pounds for not so painting or affixing its name, and for every day during which such name is not so kept painted or affixed ; and if any officer of such company, or any person on its behalf, uses any seal purporting to be a seal of the company, whereon its name is not so engraven as aforesaid, or issues or authorizes the issue of any notice, advertisement, or other official publication of such company, or signs or authorizes to be signed on behalf of such company any bill of exchange, promissory note, indorsement, cheque, order for money or goods, or issues or authorizes to be issued any bill of parcels, invoice, receipt, or letter of credit of the company, wherein its name is not mentioned in manner

Digitized by Google

aforesaid, he shall be liable to a penalty not exceeding fifty pounds, and shall further be personally liable to the holder of any such bill of exchange, promissory note, cheque, or order for money or goods for the amount thereof, unless the same is duly paid by the company.

39 A general meeting of the company shall be held once at the least in every year. General meeting of company.

40 The directors shall cause true accounts to be kept of the stock in trade of the company, of the sums of money received and expended by the company, and the matter in respect of which such receipt and expenditure takes place, and of the credits and liabilities of the company. What accounts to be kept.

41 A balance sheet shall be made out and filed with the registrar of joint stock companies within twelve months after the incorporation of the company, and once at least in every year; afterwards, within twelve months from the filing of the balance sheet immediately preceding. Such balance sheet shall contain a summary of the property and liabilities of the company arranged under the heads appearing in the form annexed to table C in the schedule hereto, or as near thereto as circumstances admit. Balance sheets to be made out annually and filed with the registrar.

42 The balance sheet shall be signed by the directors, or any three or more of them, who shall certify at the foot thereof that the same, to the best of their belief, contains a true account of the capital and liabilities and of the property and assets of the company. Balance sheet to be signed and certified by the directors.

43 No dividend shall be payable except out of the profits arising from the business of the company, including interest on capital. No dividend payable except out of profits.

44 The accounts of the company shall be examined, and the correctness of the balance sheet ascertained, by one or more auditor or auditors, who shall certify at the foot of such balance sheet that the same, to the best of his or their belief, contains a true account of the capital and liabilities and of the property and assets of the company, or make special report thereon as he or they think necessary. Audit.

45 A copy of every balance sheet and of the report thereon by the auditors shall be open to inspection in the same manner as the register of shareholders kept at such office. Inspection of balance sheet and of auditors' report.

46 Any company registered under this Ordinance may in general meeting from time to time, by such special resolution as is hereinafter mentioned, alter and make new provisions in lieu of or in addition to any regulations of the company contained in the articles of association: Provided always that such resolutions so made shall be reported to the registrar to be registered by him. Power of company to alter regulations by special resolutions.

47 A resolution shall be deemed to be a special resolution of the company whenever the same has been passed by three-fourths in number and value of such shareholders of the company for the time being entitled to vote as may be present in person or by proxy (in cases where, by the regulations of the company, proxies are allowed) at any meeting of which Definition of special resolution.

Digitized by Google

notice specifying the intention to propose such resolution has been duly given, and such resolution has been confirmed by a majority of such shareholders for the time being entitled to vote as may be present in person or by proxy at a subsequent meeting of which notice specifying the intention to propose such confirmation has been duly given, and held at an interval of not less than *fourteen days* nor more than *two months* from the date of the meeting at which such special resolution was first passed. Unless a poll is demanded by at least five shareholders, a declaration of the chairman of any such meeting as is mentioned in this section that a special resolution has been carried or confirmed shall be deemed conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the same. Notice of any meeting shall for the purposes of this section be deemed to be duly given, and the meeting to be duly held, whenever such notice is given and meeting held in manner prescribed by the regulations of the company. [§ *9, 3 of 1893*]

Registry of special resolutions.

48 A copy of any special resolution that is passed by any company registered under this Ordinance shall be forwarded to the registrar and recorded by him ; if such copy is not so forwarded within fifteen days from the date of the passing of the resolution, the company shall incur a penalty not exceeding two pounds for every day after the expiration of such fifteen days during which such copy is omitted to be forwarded.

Copies of special resolutions.

49 A copy of any special resolution shall be given to any shareholder on payment of one shilling, or of such less sum as the company may direct.

Notice to registrar of increase of capital.

50 The company, if authorized so to do by its regulations, may increase its nominal capital in manner directed by such regulations, but notice of any increase so made shall be given to the registrar within fifteen days from the date of the passing of the resolution by which such increase has been authorized, and the registrar shall forthwith record the amount of such increase. If such notice is not given within the period aforesaid, the company shall incur a penalty not exceeding five pounds for every day during which such neglect to give notice continues.

Prohibition against carrying on business with less than seven shareholders.

51 If any company registered under this Ordinance carries on business when the number of its shareholders is less than seven for a period of six months after the number has been so reduced, then every person who is a shareholder in such company during the time that it so carries on business after such period of six months shall be severally liable for the payment of the whole debts of the company contracted during such time, and may be sued for the same without the joinder in the suit of any other shareholder.

Evidence of proceedings at meetings.

52 The company shall cause minutes of all resolutions and proceedings of general meetings of the company to be duly entered in books to be from time to time provided for the purpose, and any such minutes as aforesaid, if signed by

Digitized by Google

any person purporting to be the chairman of such meeting, shall be receivable in evidence in all legal proceedings, and until the contrary is proved every general meeting in respect of the proceedings of which minutes have been so made shall be deemed to have been duly held and convened.

Legal Instruments of Company. Contracts.

53 Contracts on behalf of any company registered under this Ordinance may be made as follows; (that is to say,) **Contracts how made.**

(1) Any contract which would be by law required to be in writing may be made on behalf of the company in writing under the common seal of the company, and such contract may be in the same manner varied or discharged.

(2) Any contract which would be by law required to be in writing, and signed by the parties to be charged therewith, may be made on behalf of the company in writing, signed by any person acting under the express or implied authority of the company, and such contract may in the same manner be varied or discharged.

(3) Any contract which would by law be valid, although made by parol only and not reduced into writing, may be made by parol on behalf of the company by any person acting under the express or implied authority of the company, and such contract may in the same way be varied or discharged.

Deeds and other Instruments.

54 Any company registered under this Ordinance may, by instrument or writing under their common seal, empower any person, either generally or in respect of any specified matters, as their attorney to execute deeds on their behalf in any place; and every deed signed by such attorney on behalf of the company shall be binding on the company to the same extent as if it were under the common seal of the company. **Execution of deeds abroad.**

55 A promissory note or bill of exchange shall be deemed to have been made, accepted, or indorsed on behalf of any company registered under this Ordinance, if made, accepted, or indorsed in the name of the company by any person acting under the express authority of the company. **Promissory notes or bills of exchange.**

56 In any mortgage made by any company registered under this Ordinance there shall be implied the following covenants (unless words expressly negativing such implication are contained therein); that is to say, a covenant on the part of the company to pay the money thereby secured, and interest thereon, at the time and rate therein mentioned, a covenant that they have power to mortgage the property and that the same is free from incumbrances, and such mortgage may be in the form marked F in the schedule hereto annexed, or as near thereto as circumstances admit. **Mortgages registered under this Ordinance.**

Digitized by Google

Conveyances registered under this Ordinance.

57 In any conveyance made by any company registered under this Ordinance there shall be implied (unless words expressly negativing such implication are contained therein) the following covenants on the part of the company; (that is to say,)

A covenant that, notwithstanding any act or default done by the company, they were at the time of the execution of such conveyance possessed of the lands or premises thereby conveyed as their own absolute property, free from incumbrances occasioned by them, or otherwise for such estate or interest as therein expressed to be conveyed, free from incumbrances occasioned by them.

A covenant that the person to whom such lands or premises are conveyed, his heirs, executors, administrators, and assigns (as the case may be), shall quietly enjoy the same against the company and their successors, and all other persons claiming under them, and be indemnified and saved harmless by the company and their successors from all incumbrances occasioned by the company.

A covenant to warrant and defend the title of the person to whom such lands or premises are conveyed, his heirs, executors, administrators, or assigns, and to grant at its own expense such further deeds as may be necessary to render such conveyance effectual.

Examination of Affairs of Company.

Examination of affairs of company by inspectors appointed by the Governor.

58 Upon the application of one-third in number and value of the shareholders of any limited company registered under this Ordinance, the Governor, with the advice and consent of the Executive Council, may appoint one or more competent inspectors to examine into the affairs of the company, and to report thereon in such manner as the Governor with the advice aforesaid directs.

Power of inspectors.

59 It shall be the duty of all officers and agents of the company to produce, for the examination of the inspectors, all books and documents in their custody or power. Any inspector may examine upon oath the officers and agents of the company in relation to its business, and may administer such oath accordingly. If any officer or agent refuses to produce any such book or document, or to answer any question relating to the affairs of the company, he shall incur a penalty not exceeding five pounds in respect of each offence.

Result of examination how dealt with.

60 Upon the conclusion of the examination the inspectors shall report their opinion to the Governor, who shall direct the same to be forwarded to the registrar. All expenses of and incidental to any such examination as aforesaid shall be defrayed by the shareholders upon whose application the inspectors were appointed.

Power of company to

61 Any company, whether limited or unlimited, registered under this Ordinance, may in general meeting appoint

Digitized by Google

inspectors for the purpose of examining into the affairs of the company. The inspectors so appointed shall have the same powers and perform the same duties as inspectors appointed by the Governor, with this exception, that instead of making their report to the Governor they shall make the same in such manner and to such persons as the company in general meeting directs; and the officers and agents of the company shall incur the same penalties, in case of any refusal to produce any book or document to such inspectors, or to answer any question, as they would have incurred if such inspectors had been appointed by the Governor. All expenses of and incidental to any examination to be made by the inspectors so appointed shall be defrayed by the company. appoint inspectors.

62 A copy of the report of any inspectors appointed under this Ordinance, authenticated by the seal of the company into whose affairs they have made inspection, shall be admissible as evidence in any legal proceeding. Report of inspectors to be evidence.

Notices.

63 *Any summons or notice requiring to be served upon the company may, except in cases where a particular mode of service is directed, be served by leaving the same with any director, secretary, or other principal officer of the company at their registered office, or by sending it through the post by letter addressed to such company, and any notice to the registrar may be served by sending it to him through the post by letter, or by delivering it to him, or by leaving it for him at his office.* *Service of notice on company and registrar.* [§ *10, 3 of 1893*]

64 Notices by letter shall be posted in such time as to admit of the letter being delivered in the due course of delivery, within the period (if any) prescribed for the giving of such notice; and in proving such service it shall be sufficient to prove that such notice was properly directed, and that it was put in the post office at such time as aforesaid. Rule as to notices by letter.

65 Any summons, notices, writ, or proceeding requiring authentication by the company may be signed by any director, secretary, or other authorized officer of the company, and need not be under the common seal of the company, and the same may be in writing or in print, or partly in writing and partly in print. Authentication of notices of company.

Security for Costs.

66 When a limited company is party to any suit, the judge, if it be proved to his satisfaction that there is reason to believe that if their opponent be successful the assets of the company will be insufficient to pay his costs, may require sufficient security to be given for such costs, and (if the limited company be plaintiff) he may stay all proceedings until such security be given, or (if the limited company be defendant) he may refuse to admit the defence, and after the expiration of a stated time to be named by him to enable the company to furnish such security may, on their still failing to give security, treat the case as an undefended one. Provision as to costs in actions brought by or against certain limited companies.

Digitized by Google

PART IV.

Winding up.—Preliminary.

Application of Part IV. of Ordinance.

67 The provisions of this Ordinance relating to the winding up of companies shall apply to all companies registered under this Ordinance, and not to any other companies.

Definition of "the court."

68 The expression "the court," as used in this Ordinance, shall mean the district court having jurisdiction in the place in which the registered office of the company is situate; and any court to which jurisdiction is given by this Ordinance shall, in addition to its ordinary powers, have the same power of enforcing any orders made by it in pursuance of this Ordinance as it has in relation to other matters within the jurisdiction of such court respectively.

Liability of present shareholders in respect of debts.

69 In the event of any company being wound up by the court or voluntarily, the existing shareholders shall be liable to contribute to the assets of the company to an amount sufficient to pay the debts and liabilities of the company, and the costs, charges, and expenses of winding up the same, with this qualification, that if the company is limited no contribution shall be required from any shareholder exceeding the amount, if any, unpaid on the shares held by him, and his proportion of the costs, charges, and expenses.

Liability of former shareholders in a company other than a limited company, with respect to debts.

70 In the event of any company, other than a limited company, being wound up by the court or voluntarily, any person who has ceased to be a shareholder within the period of three years prior to the commencement of the winding up shall be deemed, for the purposes of contribution towards payment of the debts of the company, and the costs, charges, and expenses of winding up the same, to be an existing shareholder, and shall have in all respects the same rights and be subject to the same liabilities to creditors as if he had not so ceased to be a shareholder, with this exception, that he shall not be liable in respect of any debt of the company contracted after the time at which he ceased to be a shareholder.

Liability of former shareholders in a limited company with respect to debts.

71 In the event of any limited company being wound up by the court or voluntarily, any person who has ceased to be a holder of any share or shares within the period of one year prior to the commencement of the winding up, shall be deemed, for the purposes of contribution towards payment of the debts of the company, and the costs, charges, and expenses of winding up the same, to be an existing holder of such share or shares, and shall have in all respects the same rights and be subject to the same liabilities to creditors as if he had not so ceased to be a shareholder, with this exception, that he shall not be liable in respect of any debt of the company contracted after the time at which he ceased to be a shareholder.

Commencement of winding up of company defined.

72 The winding up shall, if the company is wound up by the court, be deemed to commence at the time of the presentation of such petition as is hereinafter required to be presented to the court, and if the company is wound up

Digitized by Google

voluntarily, be deemed to commence at the time of the passing of the resolution authorizing such winding up.

73 Any existing or former shareholder upon whom calls are authorized to be made by the fourth part of this Ordinance is hereinafter called "a contributory," and the representatives of any deceased contributory shall be liable in a due course of administration to the same extent as such contributory would be liable under the fourth part of this Ordinance, if alive.

Definition of "contributory" and legal character of his liability.

74 For the purpose of ascertaining the liability of existing and former shareholders as between themselves, the following rules shall be adopted in the absence of any express contract to the contrary; (that is to say,)

Rights of contributories between themselves.

(1) In the case of a company other than a limited company, every transferee of shares shall, in a degree proportioned to the shares transferred, indemnify the transferor against all existing and future debts of the company.

(2) In the case of a limited company, every transferee shall indemnify the transferor against all calls made or accrued and due on the shares transferred subsequently to the transfer.

Winding up by Court.

75 A company may be wound up by the court under the following circumstances; (that is to say,)

Circumstances under which company may be wound up by court.

(1) Whenever the company in general meeting has passed a special resolution requiring the company to be wound up by the court:

(2) Whenever the company does not commence its business within a year from its incorporation, or suspends its business for the space of a whole year:

(3) Whenever the shareholders are reduced in number to less than seven:

(4) Whenever the company is unable to pay its debts:

(5) Whenever three-fourths of the capital of the company have been lost or become unavailable.

76 A company shall be deemed to be unable to pay its debts:

Company when deemed unable to pay its debts.

(1) Whenever a creditor to whom the company is indebted in a sum exceeding £50 has served due notice on the company, by leaving at their registered office a demand under his hand requiring the company to pay the sum so due, and the company have for the space of three weeks succeeding the service of such demand neglected to pay such sum or to secure or compound for the same to the satisfaction of the creditor:

(2) Whenever satisfaction of a judgment, decree, or order of any court in favour of any creditor in any suit or other legal proceeding cannot be obtained within ten days.

Digitized by Google

Application for winding up to be by petition.

77 Any application for the winding up of a company shall be by petition, and there shall be filed or lodged at the time when such petition is presented an affidavit verifying the same. Such petition may, in cases where the company is unable to pay its debts, be presented either by a creditor or a contributory, but where any other ground is alleged for winding up the company, a contributory alone is entitled to present the petition.

Course to be pursued by a court on petition by a creditor.

78 Upon the hearing of any petition presented by a creditor the court may dismiss such petition, with or without costs, to be paid by the petitioner; or it may make an order directing the company, on a day to be named in the order, to pay or secure payment to the creditor of all monies that may be proved due to him, together with such costs as the court may direct; or the court may, if it so thinks fit, on the hearing of such petition, make an order for winding up the company in the first instance, or such other order as it deems just.

Order for winding up company on creditor's petition.

79 If at the expiration of the time named in such order such payment is not made, or security given, the court may thereupon make an order or decree for winding up the company.

Course to be pursued by court on petition of contributory.

80 Upon the hearing of a petition presented by a contributory the court may dismiss such petition, with or without costs, to be paid by the petitioner, or it may make an order or decree directing the company to be wound up, or such other order or decree as it deems just.

Effect of the order for winding up company.

81 After the date of such order or decree for winding up the company all suits and actions against the company shall, if the court so orders, be stayed; no director or other officer of the company shall without the sanction of the court dispose of any of the property or effects of the company, and no transfer of any shares shall be valid without the sanction of the court. A copy of such order or decree shall forthwith be reported by the company to the registrar, who shall make a minute thereof in his books relating to the company.

Collection and application of assets.

82 As soon as may be after making an order or decree for winding up the company the court shall cause the assets of the company to be collected, and applied in discharge of its liabilities, in a due course of administration.

Fraudulent preference.

83 Any such conveyance, mortgage, delivery of goods, payment, execution, or other act relating to property as would, if made or done by any individual trader, be deemed in the event of his bankruptcy to have been made or done by way of undue or fraudulent preference of any creditor of such trader, shall, if made or done by or against any company registered under this Ordinance, be deemed, in the event of an order being made for winding up such company, to have been made or done by way of undue or fraudulent preference of such credit of such company, and shall be invalid accordingly; and for the purposes of this section the presentation of a petition for winding up a company shall be deemed to correspond with the filing of a petition for

Digitized by Google

adjudication of insolvency in the case of an individual trader, and any conveyance or assignment made by any company registered under this Ordinance of all its estate and effects to trustees for the benefit of all its creditors shall be void to all intents.

Power of court to examine persons suspected of having property of company.

84 Before or after an order for winding up the company has been made, any person known or suspected to have in his possession any of the estate or effects of the company, or supposed to be indebted to the company, or any person whom the court may deem capable of giving information concerning the trade, dealings, estate, or effects of the company, may be compelled to give evidence, and to produce any books, papers, deeds, writings, or other documents in his custody or power, which may appear to the court requisite to the full disclosure of any of the matters which the court thinks necessary to be inquired into for the purpose of winding up the company, in the same manner as a witness may be compelled to give evidence and to produce documents in any action or suit depending in such court.

Penalty on falsification of books.

85 If any director, officer, or contributory of any company registered under this Ordinance destroys, mutilates, alters, or falsifies any books, papers, writings, or securities, or makes or is privy to the making of any false or fraudulent entry in any register, book of account, or other document belonging to the company, with intent to defraud the creditors or contributories of such company, or any of them, every person so offending shall be deemed to be guilty of an offence, and upon being convicted shall be liable to imprisonment for any term not exceeding two years, with or without hard labour.

Power to arrest shareholder about to abscond or to remove or conceal any of his property.

86 Where an order has been made for winding up a company under the fourth part of this Ordinance, if upon the application of the official liquidator it appears to the court having jurisdiction in the matter of such winding up that there is probable cause for believing that any contributory to such company is about to quit the island, or otherwise abscond or conceal himself, or to remove or conceal any of his goods or chattels, for the purpose of evading payment of calls, or for avoiding examination in respect of the affairs of the company, the court may, by warrant directed to such person or persons as it thinks fit, cause such contributory to be arrested, and his books, papers, monies, securities for monies, goods, and chattels, to be seized, and him and them to be safely kept until such time as the court may order. Any contributory who has been arrested, or whose goods or chattels have been seized under any such warrant as aforesaid, may, at any time after such arrest or seizure, apply to the court that issued the warrant to discharge him from custody, or to direct the delivery to him of any books, papers, monies, securities for money, goods, or chattels, that may have been seized, and the court may order his discharge, or the release of his goods, upon such terms and subject to such conditions as it deems fit.

Digitized by Google

Attachments, sequestrations, and executions within three months of petition.

87 If any attachment, sequestration, or execution is issued against any company, by virtue whereof the property and effects of the company, or any of them, may be attached, sequestered, or taken in execution at any time within three months next before the filing or presentation of the petition for winding up the company, such attachment, sequestration, or taking in execution shall be void in favour of the liquidators of the company, as against the attaching, sequestrating, or execution creditor, whether the same has been completely executed or not; except that such creditor shall, if the attachment, sequestration, or execution would have been valid but for this provision, be entitled to receive out of any money already realized his costs of suit, and of the attachment, sequestration, or execution, or to proceed with the attachment, sequestration, or execution for the purpose of realizing such costs; but on satisfaction of such costs, or on tender of the amount by the liquidators to the creditor, it shall be lawful for the liquidators to recover the property so attached, sequestered, and taken in execution, and the proceeds of such property or the residue thereof, as the case may be. If property seized upon such attachment, sequestration, or execution shall have already been sold, the proceeds shall be paid to the liquidators, less the costs of suit and of the attachment, sequestration, or execution.

Books of company to be evidence.

88 All books, accounts, and documents of the company, and of the liquidators hereinafter mentioned, shall, as between the contributories of the company, be *primâ facie* evidence of the truth of all matters therein contained and purporting to be therein recorded.

Power of court to make calls.

89 The court may, at any time after making an order or decree for winding up a company, and either before or after it has ascertained the sufficiency of the assets of the company or the debts in respect of which the several classes of contributories are liable, make calls on all or any of the contributories to the extent of their liability for payment of all or any sums it deems necessary to satisfy the debts and liabilities of the company and the costs of winding it up; and it may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same, and every such call shall be deemed a debt due to the company.

Recovery of calls.

90 Upon such calls being made the official liquidator or liquidators shall proceed immediately to collect the same, and shall monthly, or oftener, report to the court the names of defaulters, together with the amounts remaining unpaid of the calls made upon them respectively, and thereupon the said court shall order the payment of such calls or any of them within such time or times, and upon such notice or demand by advertisements or otherwise, as the said court may think fit; and in case any contributory, whether subject to the ordinary civil jurisdiction of the court or not, shall neglect to pay any part of the call within the time fixed by the court for the payment thereof, and shall not

Digitized by Google

within such time show to the court sufficient cause for the non-payment thereof, the said court may make an order upon such contributory for the payment of the amount due upon the call, and such order shall have the force and effect of a decree or judgment of the court, and may be executed accordingly.

Calls may be made upon former shareholders in respect of shares.

91 The court may at any time make calls upon any former holder of a share who is liable under section 70 or 71 of this Ordinance in respect of such share, as well as upon the existing holder of that share; but any payment made or obtained from any contributory in respect of a share shall operate for the benefit of every other contributory in respect of such share.

Payment of money into the bank.

92 All monies received under the direction of the court on account of the sale or conversion of any of the assets of the company, or in respect of calls made on any contributories, or of any other matter, with the exception of such balance, if any, as the official liquidators may, with the sanction of the court, retain in their hands for the payment of current expenses, shall be paid into one of the banks as the court may direct; and no money standing to such account shall be drawn except upon cheques signed in such manner as the court directs.

Power of the court to grant injunction or interdict.

93 The court may, at any time after the presentation of a petition for winding up a company, and either before or after making an order for winding up the same, upon the application of any creditor or contributory of such company, restrain further proceedings in any suit against the company, or appoint a receiver of the estate and effects of the company; it may also, by notice or advertisement, require all creditors to present and prove their claims within a certain time, or be precluded from the benefit of any distribution which may be made before such claim is proved.

Power of court to stay proceedings.

94 The court may, at any time after an order has been made for winding up a company, upon the application of any creditor or contributory of the company, and upon proof to the satisfaction of the court that all proceedings in relation to such winding up ought to be stayed, make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as it deems fit.

Power of court to adjust rights of contributories.

95 As soon as the creditors are satisfied the court shall proceed to adjust the rights of the contributories amongst themselves, and to distribute any surplus that may remain amongst the parties entitled thereto; and for the purposes of such adjustment it may make calls on the contributories to the extent of their liability for the payment of such sums as it deems necessary; and it may in making a call take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same. Nothing in this section shall preclude any former shareholder entitled to indemnity under section 74 of this Ordinance from enforcing such indemnity by due course of law.

Digitized by Google

Power of court to order costs.

96 The court may make such order as to the priority and payment out of the estate of the company of the costs, charges, and expenses incurred in winding up any company, as it thinks just.

Official Liquidators.

Appointment of official liquidators.

97 For the purpose of conducting the proceedings in winding up a company and assisting the court therein, there shall be appointed a person or persons to be called an official liquidator or official liquidators, and such appointment shall be made as follows, that is to say:

(1) The court having jurisdiction may, after requiring due security, should the court deem such security necessary, appoint such person or persons, either provisionally or otherwise, as it thinks fit, to the office of official liquidators; it may from time to time remove any person or persons so appointed, and fill up any vacancy occasioned by such removal, or by the death or resignation of any such appointee or appointees; if one person only is appointed, he shall have all the powers hereby given to several liquidators; if more persons than one are appointed, the court shall declare whether any act hereby required or authorized to be done by the official liquidators may be done by all or any one or more of such persons:

(2) The court having jurisdiction shall, in the appointment of an official liquidator or official liquidators, consult the interest of both the creditors and contributories, and hear such creditors or contributories as it thinks fit to hear with respect to such appointment. It may, unless both the creditors and contributories concur in the appointment of a single liquidator, appoint one or more liquidator or liquidators to act on behalf of each of such parties. It may declare that in case of difference any act may be done by a majority of liquidators, or it may require the liquidators in all cases of difference to apply to the court. It may do anything hereby authorized to be done, either upon the first appointment of a liquidator or at any subsequent stage of the winding up; but notwithstanding anything herein contained it shall not be obligatory on the court to appoint more than one liquidator.

Style and duties of official liquidators.

98 The official liquidator or liquidators shall be described by the style of the official liquidator or official liquidators of the particular company in respect of which he or they is or are appointed, and not by his or their individual name or names; he or they shall take into his or their custody all the property and effects of the company, and shall perform such duties in reference to the winding up of the company as may be imposed by the court.

Digitized by Google

Powers of official liquidators.

99 The official liquidator or liquidators shall have power with the sanction of the court to do the following things:

To bring or defend any action, suit, or prosecution, or other legal proceeding, civil or criminal, in the name and on behalf of the company:

To carry on the business of the company, so far as may be necessary for the beneficial winding up of the same:

To sell the immovable and movable property of the company by public or private contract, with power, if they think fit, to transfer the whole thereof to any person or company, or to sell the same in parcels:

To execute in the name and on behalf of the company all deeds, receipts, and other documents, and for that purpose to use, when necessary, the company's seal:

To refer disputes to arbitration, and compromise any debts or claims. Such power of compromising debts and claims shall be deemed to extend to the compromise of any calls or debts due from any contributory or alleged contributory to the company on receipt of a smaller sum in lieu of a greater, or upon such terms as may be agreed upon, with power to the liquidators to take any security for any calls or debts so due, and to give effectual discharges on completion of such compromise; provided that no such compromise shall be made by any official liquidator without giving such notice to creditors, and subject to such conditions as to obtaining the consent of creditors, or any portion of them, as the court may direct, and that no such compromise shall be made by the liquidators appointed on the voluntary winding up of a company except with the sanction of a special resolution:

To prove, claim, rank, and draw a dividend in the matter of the bankruptcy or insolvency or sequestration of any contributory for any balance against the estate of such contributory, and to take and receive dividends in respect of such balance in the matter of insolvency or sequestration as a separate debt due from such insolvent, and rateably with the other separate creditors:

To draw, accept, make, and indorse any bill of exchange or promissory note, and also to raise upon the security of the assets of the company from time to time any requisite sum or sums of money; and the drawing, accepting, making, or indorsing of every such bill of exchange or promissory note as aforesaid, on behalf of the company, shall have the same effect with respect to the liability of such company as if such bill or note had been drawn, accepted, made, or indorsed by such company in the course of carrying on the business thereof:

Digitized by Google

To do and execute all such other things as may be necessary for winding up the affairs of the company and distributing its assets.

Appointment of clerks to assist official liquidators.

100 The official liquidators may, with the approval of the court, appoint such clerks or officers as may be necessary to assist them in the performance of their duties. There shall be paid to such agent, clerks, and officers such remuneration, by way of fees or otherwise, as may be allowed by the court.

Remuneration of official liquidator.

101 There shall be paid to the official liquidators such salary or remuneration by way of percentage or otherwise as the court directs.

Dissolution of company.

102 When the affairs of the company have been completely wound up, the court shall make an order declaring the company to be dissolved from the date of such order, and the company shall be dissolved accordingly.

Registrar to make minute of dissolution of company.

103 Any order so made shall be reported by the official liquidators to the registrar, who shall make a minute accordingly in his books of the dissolution of such company.

Power of the judges of the Supreme Court to make rules.

104 The judges of the Supreme Court may, as often as circumstances require, make such rules concerning the mode of proceeding to be had for winding up a company, and the fees to be paid to advocates and proctors in respect thereof, as may from time to time seem necessary; but until such rules are made the general practice of the court, including its practice in insolvency cases, shall, so far as the same is applicable to and not inconsistent with this Ordinance, apply to all proceedings for winding up a company, and official liquidators shall be considered as occupying in all respects the place of an assignee.

Voluntary Winding up of the Company.

Circumstances under which company may be wound up voluntarily.

105 A company may be wound up voluntarily—

(1) Whenever the period, if any, fixed for the duration of the company by the articles of association expires, or whenever the event, if any, occurs upon the occurrence of which it is provided by the articles of association that the company is to be dissolved:

(2) Whenever the company in general meeting has passed a special resolution requiring the company to be wound up voluntarily.

Whenever a company is wound up voluntarily, the company shall, from the date of the commencement of such winding up, cease to carry on its business, except in so far as may be required for the beneficial winding up thereof, but its corporate state and all its corporate powers shall, notwithstanding any provision to the contrary in its articles of association, continue until the affairs of the company are wound up.

Notice of resolution to wind up voluntarily.

106 Notice of any special resolution to wind up a company voluntarily shall be given in the *Government Gazette.*

Digitized by Google

Consequences of voluntary winding up.

107 The following consequences shall ensue upon the voluntary winding up of a company:

(1) The property of the company shall be applied in satisfaction of its liabilities, and subject thereto, and, unless it be otherwise provided by the articles of association, be distributed amongst the shareholders in proportion to their shares:

(2) Liquidators may be appointed for the purpose of winding up the affairs of the company and distributing the property:

(3) The company in general meeting may appoint such person or persons as it thinks fit to be a liquidator or liquidators, and may fix the remuneration to be paid to them:

(4) If one person only is appointed, all the provisions herein contained in reference to several liquidators shall apply to him:

(5) When several liquidators are appointed every power hereby given may be exercised by any two of them:

(6) The liquidators may, at any time after the passing of the resolution for winding up the company, and before they have ascertained the sufficiency of the assets of the company, or the debts in respect of which the several classes of contributories are liable, call on all or any of the contributories to the extent of their liability to pay all or any sums they deem necessary to satisfy the debts of the company and the costs of winding it up; and they may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same:

(7) The liquidators shall have all powers hereinbefore vested in official liquidators, and may exercise the same without the intervention of the court:

(8) All books, papers, and documents in the hands of the liquidators shall, at all reasonable times, be open to the inspection of the shareholders:

(9) When the creditors are satisfied the liquidators shall proceed to adjust the rights of the contributories amongst themselves; and for the purposes of such adjustment they may make calls on all contributories to the extent of their liability for any sums they may deem necessary, and they may in making a call take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same:

(10) As soon as the affairs of the company are fully wound up the liquidators shall make up an account showing the manner in which such winding up has been conducted, and the property of the

Digitized by Google

company disposed of; and such account, with the vouchers thereof, shall be laid before such person or persons as may be appointed by the company to inspect the same; and upon such inspection being concluded the liquidators shall proceed to call a general meeting of the shareholders for the purpose of considering such account; but no such meeting shall be deemed to be duly held unless one month's previous notice, specifying the time, place, and object of such meeting, has been published in the *Government Gazette:*

(11) Such general meeting shall not enter upon any business except the consideration of the account; but the meeting may proceed to the consideration thereof notwithstanding the quorum required by any regulation of the company to be present at general meetings is not present thereat, and if on consideration the meeting is of opinion that the affairs of the company have been fairly wound up they shall pass a resolution to that effect, and thereupon the liquidators shall publish a notice of such resolution, in the *Government Gazette*, and shall also make a return to the registrar of such resolution, and on the expiration of one month from the date of the registration of such return the company shall be deemed to be dissolved:

(12) If within one year after the passing of the resolution for winding up the affairs of the company such affairs are not wound up, the liquidators shall immediately thereafter make up an account showing the state of the affairs, and the progress which has been made in winding up down to that date; and they shall add thereto a report stating the reason why the winding up has not been completed, and a general meeting shall be called to consider the same, and so on from year to year until the winding up of the affairs of the company is completed.

Costs to be paid out of assets in priority to all other claims.

108 All costs, charges, and expenses properly incurred in the voluntary winding up of a company, including the remuneration of the liquidators, shall be payable out of the assets of the company in priority to all other claims.

Saving of rights of creditors.

109 The voluntary winding up of a company shall not prejudice the right of any creditor of such company to institute proceedings for the purpose of having the same wound up by the court.

Appeals may be taken against decisions or orders of district and police courts.

110 All decisions and orders of the district and police courts, made under the authority of this Ordinance, shall be subject to an appeal to the Supreme Court; and every such appeal shall be brought on and prosecuted in such manner and shall be subject to such regulations as now exist, or shall be hereafter made by any rule or order of the Supreme Court.

Digitized by Google

SCHEDULE.

A.—Table of Fees.

	£.	s.	d.
For registration of a company whose nominal capital does not exceed £1,000	5	0	0
For every £1,000 of nominal capital, or part of £1,000 after the first £1,000, and up to £100,000, an additional fee of	0	5	0
For registration of any increase in the capital of a company, for every £1,000 or part of £1,000 up to £100,000 in the whole	0	5	0
For registration of any existing company, except such companies as are by this Act exempted from payment of fees in respect of registration under this Ordinance, the same fee as is charged for registering a new company.			
For registering any document hereby required or authorized to be registered, other than the memorandum of association	0	5	0
For making a record of any fact hereby authorized or required to be recorded by the registrar of companies, a fee of	0	5	0
For inspection of any document kept by the registrar ...	0	1	0
For every certified copy or extract of such document, for every sheet of 120 words or any less quantity ...	0	0	9

B.—Memorandum of Association of "The ——— Company, Limited."

1. The name of the company is "——— — Company, Limited."
2. The registered office of the company is to be established in ——.
3. The objects for which the company is established are "to ——."
4. The liability of the shareholders is limited.
5. The nominal capital of the company is ——— *pounds*, divided into *one hundred* shares of ——— *pounds* each.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names and Addresses of Subscribers.	Number of Shares taken by each Subscriber.
1. *A. B.*, of ———	20
2. *B. C.*, of ———	25
3. *C. D.*, of ———	10
4. *D. E.*, of ———	10
5. *E. F.*, of ———	15
6. *F. G.*, of ———	10
7. *G. H.*, of ———	10
Total shares taken ...	100

Dated the ——— day of ———.

Witness to the above signatures,
A. B., No. 13.

39-00

Digitized by Google

C.—Regulations for Management of the Company.

Shares.

1. Every person taking any share in the company shall testify his acceptance thereof by writing under his hand, in such form as the company from time to time directs.

2. The company may from time to time make such calls upon the shareholders in respect of all monies unpaid on their shares as they think fit, provided that twenty-one days' notice at least is given of each call by publication in the *Gazette*, and each shareholder shall be liable to pay the amount of calls so made to the persons and at the time and places appointed by the company.

3. A call shall be deemed to have been made at the time when the resolution authorizing such call was passed.

4. If before or on the day appointed for payment any shareholder does not pay the amount of any call to which he is liable, then such shareholder shall be liable to pay interest for the same at the rate of nine pounds per cent. per annum from the day appointed for the payment thereof to the time of the actual payment.

5. The company may, if they think fit, receive from any of the shareholders willing to advance the same all or any part of the monies due upon their respective shares beyond the sums actually called for; and upon the monies so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made, the company may pay interest at such rate as the shareholder paying such sum in advance and the company agree upon.

6. If several persons are joint holders of any share, any one of such persons may give effectual receipt for any dividend payable in respect of such share.

7. The company may decline to register any transfer of shares made by a shareholder who is indebted to them.

8. Every shareholder shall, on payment of one shilling, be entitled to a certificate under the common seal of the company, specifying the share or shares held by him and the amount paid up thereon.

9. If such certificate is worn out or lost, it may be renewed on payment of one shilling.

10. The transfer books shall be closed during the fourteen days immediately preceding the ordinary general meeting in each year.

Transmission of Shares.

11. The executors or administrators or heirs of a deceased shareholder shall be the only persons recognized by the company as having any title to his share.

12. Any person becoming entitled to a share in consequence of the death, bankruptcy, or insolvency of any shareholder, or in consequence of the marriage of any female shareholder, or in any way other than by transfer, may be registered as a shareholder upon such evidence being produced as may from time to time be required by the company.

13. Any person who has become entitled to a share in any way, other than by transfer, may, instead of being registered himself, elect to have some person to be named by him registered as a holder of such share.

14. The person so becoming entitled shall testify such election by executing to his nominee a transfer of such share.

15. The instrument of transfer shall be presented to the company, accompanied with such evidence as they may require to prove the title of the transferor, and thereupon the company shall register the transferee as a shareholder.

Digitized by Google

Forfeiture of Shares.

16. If any shareholder fails to pay any call due on the appointed day, the company may, at any time thereafter during such time as the call remains unpaid, serve a notice on him, requiring him to pay such call, together with any interest that may have accrued by reason of such non-payment.

17. The notice shall name a further day, and a place or places, being a place or places at which calls of the company are usually made payable, on and at which such call is to be paid. It shall also state that in the event of non-payment at the time and place appointed the shares in respect of which such call was made will be liable to be forfeited.

18. If the requisitions of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may be forfeited by a resolution of the directors to that effect.

19. Any shares so forfeited shall be deemed to be the property of the company, and may be disposed of in such manner as the company think fit.

20. Any shareholder whose shares have been forfeited shall, notwithstanding, be liable to pay to the company all calls owing upon such shares at the time of the forfeiture.

Increase of Capital.

21. The company may, with the sanction of the company previously given in general meeting, increase its capital.

22. Any capital raised by the creation of new shares shall be considered as part of the original capital, and shall be subject to the same provisions in all respects, whether with reference to the payment of calls, or the forfeiture of shares on non-payment of calls, or otherwise, as if it had been part of the original capital.

General Meeting.

23. The first general meeting shall be held at such time, not being more than twelve months after the incorporation of the company, and at such place as the directors may determine.

24. Subsequent general meetings shall be held at such time and place as may be prescribed by the company in general meeting; and if no other time or place is prescribed, a general meeting shall be held on the first Monday in February in each year, at such place as may be determined by the directors.

25. The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

26. The directors may whenever they think fit, and they shall, upon a requisition made in writing by any number of shareholders holding in the aggregate not less than one-fifth part of the shares of the company, convene an extraordinary general meeting.

27. Any requisition so made by the shareholders shall express the object of the meeting proposed to be called, and shall be left at the registered office of the company.

28. Upon the receipt of such requisition the directors shall forthwith proceed to convene a general meeting; if they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists, or any other shareholders holding the required number of shares, may themselves convene a meeting.

29. Seven days' notice at the least, specifying the place and the hour of meeting and the purpose for which any general meeting is to be held, shall be given by advertisement, or in such other manner, if any, as may be prescribed by the company.

Digitized by Google

30. Any shareholder may, on giving not less than three days' previous notice of any resolution, submit the same to a meeting.

31. Such notice shall be given by leaving a copy of the resolution at the registered office of the company.

32. No business shall be transacted at any meeting except the declaration of a dividend, unless a quorum of shareholders is present at the commencement of such business, and such quorum shall be ascertained as follows ; that is to say, if the shareholders belonging to the company at the time of the meeting do not exceed ten in number, the quorum shall be five ; if they exceed ten, there shall be added to the above quorum one for every additional five shareholders up to fifty ; and one for every ten additional shareholders after fifty, with this limitation, that no quorum shall in any case exceed forty.

33. If within one hour from the time appointed for the meeting the required number of shareholders is not present, the meeting, if convened upon the requisition of the shareholders, shall be dissolved. In any other case it shall stand adjourned to the following day, at the same time and place ; and if at such adjourned meeting the required number of shareholders is not present, it shall be adjourned *sine die.*

34. The chairman (if any) of the board of directors shall preside as chairman at every meeting of the company.

35. If there is no such chairman, or if at any meeting he is not present at the time of holding the same, the shareholders present shall choose some one of their number to be chairman of such meeting.

36. The chairman may, with the consent of the meeting, adjourn any meeting from time to time, and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

37. At any general meeting, unless a poll is demanded by at least five shareholders, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the book of proceedings of the company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

38. If a poll is demanded in manner aforesaid, the same shall be taken in such manner as the chairman directs, and the result of such poll shall be deemed to be the resolution of the company in general meeting.

Votes of Shareholders.

39. Every shareholder shall have one vote for every share up to ten ; he shall have an additional vote for every five shares beyond the first ten shares up to one hundred, and an additional vote for every ten shares held by him beyond the first hundred shares.

40. If any shareholder is a lunatic or idiot or prodigal he may vote by his curator ; and if any shareholder is a minor he may vote by his guardian, or any one of his guardians, if more than one.

41. If one or more persons are jointly entitled to a share or shares, the person whose name stands first in the register of shareholders as one of the holders of such share or shares, and no other, shall be entitled to vote in respect of the same.

42. No shareholder shall be entitled to vote at any meeting unless all calls due from him have been paid, nor until he shall have been possessed of his shares three months, unless such shares shall have been acquired, or shall have come by bequest, or by marriage, or by succession to an intestate's estate, or by operation of law, or by any deed of settlement, after the death of any person who shall have been entitled for life to the dividends of such shares.

Digitized by Google

43. Votes may be given either personally or by proxies; a proxy shall be appointed in writing under the hand of the appointor, or if such appointor is a corporation under their common seal.

44. No person shall be appointed a proxy who is not a shareholder, and the instrument or mandate appointing him shall be deposited at the registered office of the company not less than forty-eight hours before the time of holding the meeting at which he proposes to vote; but no instrument or mandate appointing a proxy shall be valid after the expiration of one month from the date of its execution.*

Directors.

45. The number of the directors and the names of the first directors shall be determined by the subscribers to the memorandum of association.

46. Until directors are appointed the subscribers to the memorandum of association shall for all the purposes of this Ordinance be deemed to be directors.

Powers of Directors.

47. The business of the company shall be managed by the directors, who may exercise all such powers of the company as are not by this Ordinance or by the articles of association, if any, declared to be exercisable by the company in general meeting, subject, nevertheless, to any regulations of the articles of association, to the provisions of this Ordinance, and to such regulations being not inconsistent with the aforesaid regulations or provisions as may be prescribed by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

Disqualification of Directors.

48. The office of director shall be vacated—

If he holds any other office or place of profit under the company:
If he becomes insolvent:
If he is concerned in or participates in the profits of any contract with the company:
If he participates in the profits of any work done for the company.

But the above rules shall be subject to the following exceptions:—That no director shall vacate his office by reason of his being a shareholder in any incorporated company which has entered into contracts with or done any work for the company of which he is director; nevertheless, he shall not vote in respect of such work or contract, and if he does so vote his vote shall not be counted, and he shall incur a penalty not exceeding twenty pounds.

Rotation of Directors.

49. At the first ordinary meeting after the incorporation of the company the whole of the directors shall retire from office; and at the first ordinary meeting in every subsequent year one-third of the directors for the time being, or if their number is not a multiple of three, then the number nearest to one-third, shall retire from office.

50. The directors who are to retire during the first and second years ensuing the incorporation of the company shall, unless the directors agree among themselves, be determined by ballot; in every subsequent year the one-third or other nearest number who have been longest in office shall retire.

* A proxy must bear a 5-cent stamp (No. 3 of 1890, schedule B).

Digitized by Google

51. A retiring director shall be eligible for re-election.

52. The company, at the general meeting at which any directors retire in manner aforesaid, shall fill up the vacated offices by electing a like number of persons.

53. If at any meeting at which an election of directors ought to take place no such election is made, the meeting shall stand adjourned till the next day, at the same time and place; and if at such adjourned meeting no election takes place, the former directors shall continue to act until new directors are appointed at the first ordinary meeting of the following year.

54. The company may from time to time in general meeting increase or reduce the number of directors, and may also determine in what rotation they are to go out of office.

55. Any casual vacancy in the board of directors may be filled up by the directors, but any person so chosen shall retain his office so long only as the vacating director would have retained the same if no vacancy had occurred.

Proceedings of Directors.

56. The directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings, as they think fit, and determine the quorum necessary for the transaction of business. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman, in addition to his original vote, shall have a casting vote. A director may at any time summon a meeting of the directors.

57. The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present at the time appointed for holding the same, the directors present shall choose some one of their number to be chairman of such meeting.

58. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit, who shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed by the directors.

59. A committee may elect a chairman of their meetings. If no such chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting.

60. A committee may meet and adjourn as they think proper. Questions at any meeting shall be determined by a majority of votes of the members present, and in case of an equal division of votes the chairman shall, in addition to his original vote, have a casting vote.

61. All acts done by any meeting of the directors, or of a committee of directors or by any person acting as a director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

62. The directors shall cause minutes to be made in a book or books provided for and used solely for that purpose—

(1) Of all appointments of officers made by the directors:
(2) Of the names of the directors present at each meeting of directors and committees of directors:
(3) Of all orders made by the directors and committees of directors; and
(4) Of all resolutions and proceedings of meetings of the company and of the directors and committees of directors.

Digitized by Google

And any such minute as aforesaid, if signed by any person purporting to be the chairman of any meeting of directors or committee of directors, shall be receivable in evidence without any further proof.

63. The company in general meeting may, by a special resolution, remove any director before the expiration of his period of office, and appoint another qualified person in his stead; the person so appointed shall hold office during such time only as the director in whose place he is appointed would have held the same if he had not been removed.

Dividends.

64. The directors may, with the sanction of the company in general meeting, declare a dividend to be paid to the shareholders in proportion to their shares.

65. No dividends shall be payable except out of the profits arising from the business of the company and with the sanction of the directors.

66. The directors may, before recommending any dividend, set aside out of the profits of the company such sum as they think proper as a reserve fund to meet contingencies, or for equalizing dividends, or for repairing or maintaining the works connected with the business of the company, or any part thereof, and the directors may invest the sum so set apart as a reserve fund upon such securities as they, with the sanction of the company, may select.

67. The directors may deduct from the dividends payable to any shareholder all such sums of money as may be due from him to the company on account of calls or otherwise.

68. Notice of any dividend that may have been declared shall be given to each shareholder, or sent by post or otherwise to his registered place of abode; and all dividends unclaimed for three years after having been declared, may be forfeited by the directors for the benefit of the company.

69. No dividend shall bear interest as against the company.

Accounts.

70. Once at the least in every year the directors shall lay before the company in general meeting a statement of the income and expenditure for the past year, made up to a date not more than three months before such meeting.

71. The statement so made shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expense of the establishment, salaries, and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting; and in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

72. A balance sheet shall be made out in every year, and laid before the general meeting of the company, and such balance sheet shall contain a summary of the property and liabilities of the company, arranged under the heads appearing in the form annexed to this table, or as near thereto as circumstances admit.

73. A printed copy of such balance sheet shall, seven days previously to such meeting, be delivered at or sent by post to the registered address of every shareholder.

Digitized by Google

Audit.

74. The accounts of the company shall be examined, and the correctness of the balance sheet ascertained, by one or more auditors to be elected by the company in general meeting.

75. If not more than one auditor is appointed, all the provisions herein contained relating to auditors shall apply to him.

76. The auditors need not be shareholders in the company. No person is eligible as an auditor who is interested otherwise than as a shareholder in any transaction of the company, and no director or other officer of the company is eligible during his continuance in office.

77. The election of auditors shall be made by the company at their ordinary meeting, or, if there are more than one, at their first ordinary meeting in each year.

78. The remuneration of the auditors shall be fixed by the company at the time of their election.

79. Any auditor shall be re-eligible on his quitting office.

80. If any casual vacancy occurs in the office of auditor, the directors shall forthwith call an extraordinary general meeting for the purpose of supplying the same.

81. If no election of auditors is made in manner aforesaid the Governor may, with the advice and consent of the Executive Council, and on the application of one-fifth in number of the shareholders of the company, appoint an auditor for the current year, and fix the remuneration to be paid to him by the company for his services.

82. Every auditor shall be supplied with a copy of the balance sheet, and it shall be his duty to examine the same with the accounts and vouchers relating thereto.

83. Every auditor shall have a list delivered to him of all books kept by the company, and he shall at all reasonable times have access to the books and accounts of the company. He may, at the expense of the company, employ accountants or other persons to assist him in investigating such accounts, and he may, in relation to such accounts, examine the directors or any other officer of the company.

84. The auditors shall make a report to the shareholders upon the balance sheet and accounts, and in every such report they shall state whether, in their opinion, the balance sheet is a full and fair balance sheet containing the particulars required by these regulations, and properly drawn up so as to exhibit a true and correct view of the state of the company's affairs; and in case they have called for explanations or information from the directors, whether such explanations or information have been given by the directors, and whether they have been satisfactory; and such report shall be read, together with the report of the directors, at the ordinary meeting.

Notices.

85. Notices requiring to be served by the company upon the shareholders may be served either personally or by leaving the same or sending them through the post in a letter addressed to the shareholders at their registered places of abode.

86. All notices directed to be given to the shareholders shall, with respect to any share to which persons are jointly entitled, be given to whichever of the said persons is named first in the register of shareholders, and notice so given shall be sufficient notice to all the proprietors of such share.

87. All notices required by this Ordinance to be given by advertisement shall be published in the *Government Gazette*.

Digitized by Google

Form of Balance Sheet referred to in Table.

Dr. Balance Sheet of the ———— Company, made up to ———, 18—. **Cr.**

Capital and Liabilities.					Property and Assets.				
			£ s. d.	£ s. d.				£ s. d.	£ s. d.
I. *Capital.*	1	Showing : The total amount received from the shareholders ; showing also : (*a*) The number of shares. (*b*) The amount paid per share. (*c*) If any arrears of calls, the nature of the arrears and the names of the defaulters. Any arrears due from any director or officer of the company to be separately stated. (*d*) The particulars of any forfeited shares.			III. *Property held by the Company.*	4	Showing : Immovable property, distinguishing : (*a*) Land. (*b*) Buildings. (*c*) Leasehold.		
						5	Movable property, distinguishing : (*d*) Stock in trade. (*e*) Plant. The cost to be stated, with deductions for deterioration in value, as charged to the reserve fund, or profit and loss.		
	2	Showing : The amount of loans on mortgage or debenture bonds.			IV. *Debts owing to the Company.*	6	Showing : Debts considered good for which the company hold bills or other securities.		
II. *Debts and Liabilities of the Company.*	3	The amount of debts owing by the company, distinguishing : (*a*) Debts for which acceptances have been given. (*b*) Debts to tradesmen for supplies of stock in trade and other articles. (*c*) Debts for law expenses. (*d*) Debts for interest on loans. (*e*) Unclaimed dividends. (*f*) Debts not enumerated above.				7	Debts considered good for which the company hold no security.		
						8	Debts considered doubtful and bad. Any debt due from a director or other officer of the company to be separately stated.		
VI. *Reserve Fund.*		Showing : The amount set aside from profits to meet contingencies.			V. *Cash and Investments.*		Showing : The nature of investment and rate of interest. The amount of cash, where lodged, and if bearing interest.		
VII. *Profit and Loss.*		Showing : The disposable balance for payment of dividend, &c.							
Contingent Liabilities.		Claims against the company not acknowledged as debts. Monies for which the company is contingently liable.							

Digitized by Google

D.—Summary of Capital and Shares of the ——— Company, Limited, made up to the —— day of ———, 18—.

Nominal capital, £ ———, divided into ——— shares of £ ——— each.
Number of shares taken up to the ——— day of ———, ———.
There has been called up on each share, £ ———.
Total amount of calls received, £ ———.
Total amount of calls unpaid, £ ———.
Total amount of shares forfeited, £ ———.

List of Persons holding Shares in the ——— Company, Limited, on the ——— day of ———, and of Persons who have held Shares therein at any time during the year immediately preceding the said ——— day of ———, showing their Names and Addresses, and an Account of the Shares so held.

Folio in Register Ledger containing particulars.	Names.		Addresses and Occupations.		Account of Shares.					Remarks.
	Surname.	Christian Name.	Address.	Occupation.	Shares held by existing Shareholders on the ——— day of ———, 18—.	Additional shares held by existing Shareholders during the preceding year.		Shares held by persons no longer Shareholders.		
						Number.	Date of Transfer.	Number.	Date of Transfer.	

Joint Stock Companies.

E.—Form of Transfer of Shares.

I, ———, of ——— [in consideration of the sum of £ ——— paid to me by ———, of ———],* do hereby transfer to the said ——— share (*or* shares), numbered ———, in the ——— Company, Limited, standing in my name in the books of the company, to hold unto the said ———, his heirs, executors, administrators, and assigns, subject to the several conditions on which I hold the same; and I, the said ———, do hereby agree to take the said share (*or* shares), subject to the same conditions.

As witness our hands the ——— day of ———, 18—.

F.—Form of Mortgage.

The ——— Company, Limited (in consideration of the sum of £ ——— paid to such company by ——— of ———), mortgages unto him, his heirs, executors, administrators, and assigns, the following ———.

Given under the seal of the said company this ——— day of ———, 18—.

4th September, 1861.

No. 4 of 1888.

An Ordinance to enable Joint Stock Companies to compound for the Stamp Duties payable on certain Shares issued by them unstamped.

Preamble.

WHEREAS by schedule B to the Ordinance No. 43 of 1884,† intituled "An Ordinance to consolidate the Stamp Duties leviable in this Colony," it is provided that every certificate or other document evidencing the right or title of the holder thereof, or any other person, either to any share, scrip, or stock in or of any company or association, or to become proprietor of any share, scrip, or stock in or of any company or association, shall bear a stamp of five cents:

And whereas several of the joint stock companies incorporated under "The Joint Stock Companies' Ordinance, 1861," have inadvertently, and through ignorance of the provisions of the above in part recited schedule of the Ordinance No. 43 of 1884,† issued share certificates without attaching thereto the necessary stamp of five cents:

And whereas it is expedient to provide for the recovery of the stamp duty so due and unpaid, and to remove all doubts as to the validity of the shares so issued: Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Joint stock companies empowered to compound for the payment of duty on unstamped shares heretofore issued.

1 It shall be lawful for any joint stock company now incorporated under "The Joint Stock Companies' Ordinance, 1861," to compound for the payment of duty on all unstamped share certificates heretofore issued, on the following conditions: that within six months from the passing of this Ordinance the said joint stock company do forward to the Commissioner of Stamps an affidavit sworn to by the secretary, or some officer of the said company, setting out the number of share certificates issued by the said company since the passing of the Ordinance No. 43 of 1884,† which have not been so stamped as aforesaid, and do pay to the Commissioner of Stamps the amount of the duty due in respect of the same, together with a penalty of ten rupees.

* The words within brackets will be omitted if no consideration is paid.
† Repealed by No. 3 of 1890.

Digitized by Google

Joint Stock Companies.

Commissioner to issue certificate declaring the duty leviable in respect of shares has been paid.

2 The Commissioner of Stamps, on receipt of the said affidavit and of the amount of the duty due in respect of the said shares and of the penalty imposed by section 1 of this Ordinance, shall issue a certificate under his hand to the joint stock company, declaring that all the duty leviable in respect of the said shares has been duly paid.

After issue of certificate all shares issued to be valid.

3 After the issuing of the aforesaid certificate all share certificates issued by the said joint stock company subsequent to the passing of the Ordinance No. 43 of 1884* and prior to the passing of this Ordinance, shall be admitted for all purposes to be good and available in law as if duly stamped at the date of the execution thereof.

28th November, 1888.

No. 6 of 1888.

An Ordinance to amend "The Joint Stock Companies' Ordinance, 1861."

Preamble.

WHEREAS "The Joint Stock Companies' Ordinance, 1861," requires in some respects to be amended: It is hereby enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Short title.

1 This Ordinance may be cited for all purposes as "The Joint Stock Companies' Ordinance, 1888."

Ordinance to be construed as one with Ordinance No. 4 of 1861.

2 "The Joint Stock Companies' Ordinance, 1861," is hereinafter referred to as "the principal Ordinance," and the principal Ordinance and this Ordinance are hereinafter distinguished, and may be cited for all purposes, as "The Joint Stock Companies' Ordinances, 1861 and 1888," and this Ordinance shall, so far as is consistent with the tenor thereof, be construed as one with the principal Ordinance; and the expression "this Ordinance" in the principal Ordinance, and any expression referring to the principal Ordinance which occurs in any Ordinance or other document, shall be construed to mean the principal Ordinance as amended by this Ordinance.

Commencement of Ordinance.

3 This Ordinance shall come into force on the First day of January, 1889, which date is hereinafter referred to as the commencement of this Ordinance.

Construction of capital and powers to reduce capital.

4 The word "capital" as used in this Ordinance shall include paid-up capital, and the power to reduce capital conferred by this Ordinance shall include a power to cancel any lost capital or any capital unrepresented by available assets, or to pay off any capital which may be in excess of the wants of the company; and paid-up capital may be reduced either with or without extinguishing or reducing the liability (if any) remaining on the shares of the company; and to the extent to which such liability is not extinguished or reduced, it shall be deemed to be preserved.

Power to company to reduce capital.

5 Any company limited by shares may by special resolution so far modify the conditions contained in its memorandum of association, if authorized so to do by its regulations as originally framed, or as altered by special resolution, as to reduce its capital; but no such resolution for reducing the capital of any company shall come into operation until an order of the court is registered by the registrar of joint stock companies, as is hereinafter mentioned.

Company to add "and

6 The company shall, after the date of the passing of any special resolution for reducing its capital, add to its name, until such date as

* Repealed by No. 3 of 1890.

Digitized by Google

the court may fix, the words "and reduced" as the last words in its name, and those words shall, until such date, be deemed to be part of the name of the company, within the meaning of the principal Ordinance.

reduced" to its name for a limited period.

Company to apply to the court for an order confirming reduction.

7 A company which has passed a special resolution for reducing its capital may apply to the court by petition for an order confirming the reduction; and on the hearing of the petition the court, if satisfied that, with respect to every creditor of the company, who, under the provisions of this Ordinance, is entitled to object to the reduction, either his consent to the reduction has been obtained, or his debt or claim has been discharged, or has determined, or has been secured as hereinafter provided, may make an order confirming the reduction on such terms and subject to such conditions as it deems fit.

Definition of "the court."

8 The expression "the court" shall in this Ordinance mean the district court which has jurisdiction to make an order for winding up the petitioning company, and the 68th section of the principal Ordinance shall be construed as if that section included proceedings under this Ordinance; and the court may in any proceedings under this Ordinance make such order as to costs as it deems fit.

Creditors may object to reduction, and list of objecting creditors to be settled by the court.

9 Where a company proposes to reduce its capital, every creditor of the company who at the date fixed by the court is entitled to any debt or claim, which, if that date were the commencement of the winding up of the company, would be admissible in proof against the company, shall be entitled to object to the proposed reduction and to be entered in the list of creditors who are so entitled to object.

The court shall settle a list of such creditors, and for that purpose shall ascertain as far as possible, without requiring an application from any creditor, the names of such creditors and the nature and amount of their debts or claims, and may publish notices fixing a certain day or days within which creditors of the company who are not entered on the list are to claim to be so entered, or to be excluded from the right of objecting to the proposed reduction.

Court may dispense with consent of creditor on security being given for his debt.

10 Where a creditor whose name is entered on the list of creditors, and whose debt or claim is not discharged or determined, does not consent to the proposed reduction, the court may, if it think fit, dispense with such consent on the company securing the payment of the debt or claim of such creditor by setting apart and appropriating in such manner as the court may direct a sum of such amount as is hereinafter mentioned; that is to say:

(1) If the full amount of the debt or claim of the creditor is admitted by the company, or, though not admitted, is such as the company are willing to set apart and appropriate, then the full amount of the debt or claim shall be set apart and appropriated.

(2) If the full amount of the debt or claim of the creditor is not admitted by the company, and is not such as the company are willing to set apart and appropriate, or if the amount is contingent, or not ascertained, then the court may, if it think fit, inquire into and adjudicate upon the validity of such debt or claim and the amount for which the company may be liable in respect thereof, in the same manner as if the company were being wound up by the court; and the amount fixed by the court on such inquiry and adjudication shall be set apart and appropriated.

Dispensing with consent of creditors and of adding the words "and reduced" in certain cases.

11 Where the reduction of the capital of a company does not involve either the diminution of any liability in respect of unpaid capital or the payment to any shareholder of any paid-up capital—

(1) The creditors of the company shall not, unless the court otherwise direct, be entitled to object, or required to consent to the reduction; and

Digitized by Google

(2) It shall not be necessary, before the presentation of the petition for confirming the reduction, to add, and the court may, if it thinks it expedient so to do, dispense altogether with the addition of the words "and reduced."

In any case that the court thinks fit so to do, it may require the company to publish in such manner as it thinks fit the reasons for the reduction of its capital, or such other information in regard to the reduction of its capital as the court may think expedient with a view to give proper information to the public in relation to the reduction of its capital by a company, and, if the court thinks fit, the causes which led to such reduction.

Order and minute to be registered.

12 The registrar of joint stock companies, upon the production to him of an order of the court confirming the reduction of the capital of a company, and the delivery to him of a copy of the order and of a minute (approved by the court), showing with respect to the capital of the company as altered by the order the amount of such capital, the number of shares in which it is to be divided, the amount of each share, and the amount (if any) proposed to be deemed to have been paid upon each share at the date of the registration, shall register the order and minute, and on the registration the special resolution confirmed by the order so registered shall take effect.

Notice of such registration shall be published in such manner as the court may direct.

The registrar shall certify under his hand the registration of the order and minute, and his certificate shall be conclusive evidence that all the requisitions of this Ordinance with respect to the reduction of capital have been complied with, and that the capital of the company is such as is stated in the minute.

Minute to form part of memorandum of association.

13 The minute when registered shall be deemed to be substituted for the corresponding part of the memorandum of association of the company, and shall be of the same validity, and subject to the same alterations, as if it had been originally contained in the memorandum of association, and, subject as in this Ordinance mentioned, no member of the company, whether past or present, shall be liable in respect of any share to any call or contribution exceeding in amount the difference (if any) between the amount which has been paid on such share and the amount of the share as fixed by the minute.

Saving of rights of creditors who are ignorant of proceedings.

14 If any creditor who is entitled in respect of any debt or claim to object to the reduction of the capital of a company under this Ordinance is, in consequence of his ignorance of the proceedings taken with a view to such reduction, or of their nature and effect with respect to his claim, not entered on the list of creditors, and after such reduction the company is unable within the meaning of the 76th section of the principal Ordinance to pay to the creditor the amount of such debt or claim, every person who was a member of the company at the date of the registration of the order and minute relating to the reduction of the capital of the company shall be liable to contribute for the payment of such debt or claim an amount not exceeding the amount which he would have been liable to contribute if the company had commenced to be wound up on the day prior to such registration, and on the company being wound up, the court, on the application of such creditor, and on proof that he was ignorant of the proceedings taken with a view to the reduction, or of their nature and effect with respect to his claim, may, if it think fit, settle a list of such contributories accordingly, and make and enforce calls and orders on the contributories settled on such list in the same manner in all respects as if they were ordinary contributories in a winding up; but the provisions of this section shall not affect the rights of the contributories of the company among themselves.

Copy of registered minute.

15 A minute when registered shall be embodied in every copy of the memorandum of association issued after its registration, and if any

Digitized by Google

company makes default in complying with the provisions of this section, it shall incur a penalty not exceeding ten rupees for each copy in respect of which such default is made, and every director and manager of the company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.

16 If any director, manager, or officer of the company wilfully conceals the name of any creditor of the company who is entitled to object to the proposed reduction, or wilfully misrepresents the nature or amount of the debt or claim of any creditor of the company, or if any director or manager of the company aids or abets in or is privy to any such concealment or misrepresentation as aforesaid, every such director, manager, or officer shall be guilty of an offence and shall be punishable by such punishment as the court before which a conviction therefor shall be obtained shall award.

Penalty on concealment of name of creditor.

17 The powers of making rules concerning winding up conferred on the judges of the Supreme Court by the 104th section of the principal Ordinance shall respectively extend to making rules concerning matters in which jurisdiction is by this Ordinance given to the court which has the power of making an order to wind up a company; and until such rules are made the practice of the court in matters of the same nature shall, so far as the same is applicable, be followed.

Power to make rules extended to making rules concerning matters in this Ordinance.

18 Any company limited by shares may so far modify the conditions contained in its memorandum of association, if authorized so to do by its regulations as originally framed, or as altered by special resolution, as to reduce its capital by cancelling any shares which at the date of the passing of such resolution have not been taken, or agreed to be taken, by any person, and the provisions hereinbefore contained shall not apply to any reduction of capital made in pursuance of this section.

Power to reduce capital by the cancellation of unissued shares.

19 And whereas it is expedient to make provision for the reception as legal evidence of certificates of incorporation other than the original certificates, and of certified copies of extracts from any documents filed and registered under "The Joint Stock Companies' Ordinances, 1861 and 1888:" Be it enacted that any certificate of the incorporation of any company given by the registrar for the time being shall be received in evidence as if it were the original certificate, and any copy of, or extract from, any of the documents or part of the documents kept and registered at the office for the registration of joint stock companies, if duly certified to be a true copy under the hand of the registrar for the time being, and whom it shall not be necessary to prove to be the registrar, shall in all legal proceedings, civil or criminal, and in all cases whatsoever, be received in evidence as of equal validity with the original document.

Provision for the reception in evidence of certified copies of certificates of incorporation and other documents.

11th December, 1888.

No. 3 of 1893.

An Ordinance to amend "The Joint Stock Companies' Ordinances, 1861 and 1888."

WHEREAS it is expedient to amend "The Joint Stock Companies' Ordinances, 1861 and 1888:" Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Preamble.

1 This Ordinance may be cited for all purposes as "The Joint Stock Companies' Ordinance, 1893."

Short title.

Digitized by Google

Ordinance to be construed as one with Ordinances No. 4 of 1861 and No. 6 of 1888.

2 "The Joint Stock Companies' Ordinance, 1861," is hereafter referred to as "the principal Ordinance," and the principal Ordinance, "The Joint Stock Companies' Ordinance, 1888," and this Ordinance shall be read as one Ordinance, and may be cited for all purposes as "The Joint Stock Companies' Ordinances, 1861, 1888, and 1893;" and the expression "this Ordinance" in the principal Ordinance, and any expression referring to the principal Ordinance which occurs in any Ordinance or other document, shall be construed to mean the principal Ordinance as amended by "The Joint Stock Companies' Ordinance, 1888," and this Ordinance.

Commencement of Ordinance.

3 This Ordinance shall come into force on the First day of January, 1894, which date is hereinafter referred to as "the commencement of this Ordinance."

Section 8 amended.

4 In section 8 of the principal Ordinance for the words "such first-mentioned company may" shall be substituted the words "such first-mentioned company shall."

Power of company to change name.

5 After section 8 of the principal Ordinance the following section shall be added and numbered 8 (*a*), namely:

Any company with the sanction of a special resolution of the company passed in manner hereinafter mentioned, and with the approval of the Governor, testified in writing under the hand of the Colonial Secretary or of one of the assistant colonial secretaries, may change its name, and upon such change being made the registrar shall enter the new name in the register in the place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case; but no such alteration of name shall affect any rights or obligations of the company, or render defective any legal proceedings instituted or to be instituted by or against the company, and any legal proceedings may be continued or commenced against the company by its new name that might have been continued or commenced against the company by its former name.

Section 21 amended.

6 To section 21 of the principal Ordinance the following words shall be added, namely:

And every director or manager of the company who shall knowingly and wilfully authorize or permit a contravention of this section shall incur the like penalty.

Section 26 amended.

7 To section 26 of the principal Ordinance the following words shall be added, namely:

And every director and manager of the company who shall knowingly authorize or permit such refusal shall incur the like penalty.

Section 34 amended.

8 To section 34 of the principal Ordinance the following words shall be added, namely:

And if any company make default in forwarding a copy of the memorandum of association, if any, to a member in pursuance of this section, the company so making default shall for each offence incur a penalty not exceeding ten rupees.

Section 47 amended.

9 In section 47 of the principal Ordinance for the words "one month" shall be substituted the words "fourteen days," and for the words "three months" shall be substituted the words "two months."

Section 63 amended.

10 For section 63 of the principal Ordinance the following shall be substituted, namely:

Service of notice on company and registrar.

Any summons or notice requiring to be served upon the company may, except in cases where a particular mode of service is directed, be served by leaving the same with any director, secretary, or other principal officer of the company at their registered office, or by

Digitized by Google

sending it through the post by letter addressed to such company, and any notice to the registrar may be served by sending it to him through the post by letter, or by delivering it to him, or by leaving it for him at his office.

11 (1) In the distribution of the assets of any company being wound up under the principal Ordinance, there shall be paid in priority to other debts— Wages and salaries to be a claim.

(*a*) All wages or salary of any clerk or servant in respect of service rendered to the company during four months before the commencement of the winding up, not exceeding five hundred rupees; and

(*b*) All wages of any labourers or workmen in respect of service rendered to the company during two months before the commencement of the winding up.

(2) The foregoing debts shall rank equally among themselves, and shall be paid in full, unless the assets of the company are insufficient to meet them, in which case they shall abate in equal proportions between themselves. Such claims to rank equally.

(3) Subject to the retention of such sums as may be necessary for the cost of administration or otherwise, the liquidator or liquidators or official liquidator shall discharge the foregoing debts forthwith, so far as the assets of the company are and will be sufficient to meet them, as and when such assets come into the hands of such liquidator or liquidators or official liquidator. Liquidators to discharge same upon receipt of sufficient assets.

12 Every prospectus of a company, and every notice inviting persons to subscribe for shares in any joint stock company, shall specify the dates and the names of the parties to any contract entered into by the company, or the promoters, directors, or trustees thereof, before the issue of such prospectus or notice, whether subject to adoption by the directors, or the company, or otherwise, and any prospectus or notice not specifying the same shall be deemed fraudulent on the part of the promoters, directors, and officers of the company knowingly issuing the same, as regards any person taking shares in the company on the faith of such prospectus, unless he shall have had notice of such contract. And any promoter, director, or officer of a company who shall issue any such prospectus or notice contrary to the provisions of this section shall be guilty of an offence, and be punished with imprisonment of either description for a term which may extend to twelve months, and with a fine not exceeding five thousand rupees. Prospectus, &c., to specify dates and names of parties to any contract made prior to issue of such prospectus, &c. Penalty for breach.

13 Every limited company under the principal Ordinance shall keep a register of all mortgages and charges specifically affecting property of the company, and shall enter in such register in respect of each mortgage or charge a short description of the property mortgaged or charged, the amount of charge created, and the names of the mortgagees or persons entitled to such charge; if any property of the company is mortgaged or charged without such entry as aforesaid being made, every director, manager, or other officer of the company who knowingly and wilfully authorizes or permits the omission of such entry shall incur a penalty not exceeding five hundred rupees. The register of mortgages required by this section shall be open to inspection by any creditor or member of the company at all reasonable times, and if such inspection is refused any officer of the company refusing the same, and every director and manager of the company authorizing or knowingly and wilfully permitting such refusal, shall incur a penalty not exceeding fifty rupees, and a further penalty not exceeding twenty rupees for every day during which such refusal continues, and in addition to the above penalty any district judge, in the case of companies subject to his jurisdiction, may by order compel an immediate inspection of the register. Register of mortgages.

Digitized by Google

Power of company to alter objects subject to confirmation by court.

14 (1) Subject to the provisions hereinafter mentioned a company registered under the principal Ordinance may, by special resolution, alter the provisions of its memorandum of association with respect to the objects of the company, but in no case shall any such alteration take effect until confirmed on petition by the court which has jurisdiction to make an order for winding up the company.

(2) Before confirming any such alteration the court must be satisfied—

(*a*) That sufficient notice has been given to every holder of debentures or debenture stock of the company, and any person or class of persons whose interests will, in the opinion of the court, be affected by the alteration; and

(*b*) That with respect to every creditor who in the opinion of the court is entitled to object, and who signifies his objection in manner directed by the court, either his consent to the alteration has been obtained or his debt or claim has been discharged, or has determined, or has been secured to the satisfaction of the court. Provided that the court may, in the case of any person or class of persons, for special reasons dispense with the notice required by this section.

(3) An order confirming any such alteration may be made on such terms and subject to such conditions as to the court seems fit, and the court may make such orders as to costs as it deems proper.

(4) The court shall, in exercising its discretion under this Ordinance, have regard to the rights and interests of the members of the company, or of any class of those members, as well as to the rights and interests of the creditors, and may, if it thinks fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the court for the purchase of the interests of dissentient members; and the court may give such directions and make such orders as it may think expedient for the purpose of facilitating any such arrangement or carrying the same into effect: Provided always that it shall not be lawful to expend any part of the capital of the company in any such purchase.

(5) The court may confirm, either wholly or in part, any such alteration as aforesaid with respect to the objects of the company, if it appears that the alteration is required in order to enable the company—

(*a*) To carry on its business more economically or more efficiently: or

(*b*) To attain its main purpose by new or improved means; or

(*c*) To enlarge or change the local area of its operations; or

(*d*) To carry on some business or businesses which under existing circumstances may conveniently or advantageously be combined with the business of the company; or

(*e*) To restrict or abandon any of the objects specified in the memorandum of association.

Registration of order together with memorandum as altered, and consequences thereof.

15 (1) Where a company has altered the provisions of its memorandum of association with respect to the objects of the company, and such alteration has been confirmed by the court, an office copy of the order confirming such alteration, together with a printed copy of the memorandum of association, shall be delivered by the company to the registrar of joint stock companies within fifteen days from the date of the order, and the registrar shall register the same and shall certify under his hand the registration thereof, and his certificate shall be conclusive evidence that all the requisitions of this Ordinance, with respect to such alteration and the confirmation thereof, have been complied with, and thenceforth (but subject to the provisions of this Ordinance) the memorandum so altered shall be the memorandum of

Digitized by Google

association, and shall apply to the company in the same manner as if the company were a company registered under the principal Ordinance with such memorandum.

(2) If a company makes default in delivering to the registrar any document required by this section to be delivered to him, the company shall be liable to a penalty not exceeding one hundred rupees for every day during which it is in default.

16 All penalties imposed by and recoverable under this or the principal Ordinance shall be deemed and taken to be a debt to Her Majesty of the party, parties, or company liable to pay the same, and shall and may, whatever may be the amount claimed, be sued for and recovered by the registrar on behalf of Her Majesty in the court of requests, Colombo.

Penalties to be recoverable at the suit of the registrar in the court of requests, Colombo.

21st November, 1893.

No. 2 of 1897.

An Ordinance to empower Banking Companies to become Incorporated under the Joint Stock Companies' Ordinances.

WHEREAS it is expedient to empower persons associated together for the purpose of banking to incorporate themselves as a joint stock company under "The Joint Stock Companies' Ordinances, 1861, 1888, and 1893:" Be it therefore enacted by the Governor, by and with the advice and consent of the Legislative Council thereof, as follows:

Preamble.

1 This Ordinance may be cited for all purposes as "The Joint Stock Banking Ordinance, 1897."

Short title.

2 It shall be lawful for the Governor to authorize by order, under the hand of the Colonial Secretary, to be published in the *Government Gazette*, any number of persons, not less than seven, who desire to be incorporated and registered as a company for the purpose of carrying on the business of banking, to apply under the provisions of "The Joint Stock Companies' Ordinances, 1861, 1888, and 1893," and of this Ordinance, to be incorporated and registered as a banking company with limited liability. And upon such order such persons may proceed in the manner provided by part II. of "The Joint Stock Companies' Ordinance, 1861," to obtain incorporation and registration as a company limited, and all the provisions of "The Joint Stock Companies' Ordinances, 1861, 1888, and 1893," shall, in so far as they are not inconsistent with the provisions of this Ordinance, apply to all companies so incorporated and registered.

Governor may authorize banking companies to be incorporated and to be registered.

3 No company, association, or partnership consisting of more than six persons shall be formed after the commencement of this Ordinance for the purpose of carrying on the business of banking in the island, unless such company, association, or partnership be incorporated and registered as a banking company under the Ordinances or Acts relating to companies from time to time in force in this island, or in any British colony or possession, or in British India, or under any Acts of Parliament, or be incorporated by an Act of Parliament or of the Governor-General of India in Council, or by Royal Charter or Letters Patent.

Prohibition on banking companies not so incorporated.

4 In lieu of the memorandum of association prescribed by section 9 of "The Joint Stock Companies' Ordinance, 1861," the memorandum of association of a banking company shall be in the form marked A in the schedule hereto, or as near thereto as circumstances admit; and it shall, when the company is incorporated, bind the company and the shareholders therein as if there were in such memorandum contained

Form of memorandum of association.

Digitized by Google

on the part of every shareholder, his heirs, executors, and administrators, a covenant to conform to all the regulations of such memorandum, subject to the provisions of "The Joint Stock Companies' Ordinances, 1861, 1888, and 1893," and of this Ordinance.

Articles of association.

5 The memorandum of association may be accompanied by or have annexed thereto or endorsed thereon articles of association signed by the subscribers to the memorandum of association, and prescribing regulations for the company; but if no such regulations are prescribed, or so far as the same do not extend to modify the regulations contained in the table marked B in the schedule hereto, then, in the case of a banking company, in lieu of the regulations prescribed by section 11 of "The Joint Stock Companies' Ordinance, 1861," the regulations contained in the aforesaid table B in the schedule hereto shall, so far as the same are applicable, be deemed to be the regulations of the company, and shall bind the company and the shareholders therein to the same extent as if they had been inserted in articles of association and such articles had been registered.

Banking companies to publish half-yearly statements.

6 Every banking company duly incorporated and registered under the provisions of "The Joint Stock Companies' Ordinances, 1861. 1888, and 1893," and of this Ordinance, shall, before it commences business and also on the first Monday in February and the first Monday in August in every year during which it carries on business, make a statement in the form marked C in the schedule hereto, or as near thereto as circumstances will admit, and a copy of such statement shall be put up on a conspicuous place in the registered office of the company and in every branch office or place where the business of the banking company is carried on; and if default is made in compliance with the provisions of this section, the banking company shall be liable to a penalty not exceeding fifty rupees for every day during which such default continues, and every director and manager of such company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.

Every member and every creditor of any banking company shall be entitled to a copy of the above-mentioned statement on payment of a sum not exceeding twenty-five cents.

On registration of banking companies with limited liability, notice to be given to customers.

7 Every association of bankers existing as such at the date of the passing of this Ordinance which registers itself as a company limited under the provisions of "The Joint Stock Companies' Ordinances, 1861, 1888, and 1893," and of this Ordinance, shall, at least thirty days previous to obtaining a declaration of incorporation with limited liability, give notice that it is intended so to do to every person and partnership firm who have a banking account with the association, and such notice shall be given either by delivering the same to such person or firm, or by leaving the same or putting the same into the post addressed to him or them at such address as shall have been last communicated, or otherwise become known as his or their address to or by the association, or, should there be no such address, by publishing the notice addressed to such person or firm in the *Government Gazette* and one of the local newspapers; and in case the association omits to give any such notice as is hereinbefore required to be given, then as between the association and the person or persons only who are for the time being interested in the account in respect of which such notice ought to have been given, and so far as respects such account and all variations thereof down to the time at which such notice shall be given, but not further or otherwise, the declaration of incorporation with limited liability shall have no operation.

Audit of accounts of banking companies.

8 (1) Once at least in every year the accounts of every banking company registered after the passing of this Ordinance as a company limited shall be examined by an auditor or auditors, who shall be elected annually by the company in general meeting.

Digitized by Google

(2) A director or officer of the company shall not be capable of being elected auditor of such company.

(3) An auditor on quitting office shall be re-eligible.

(4) If any casual vacancy occurs in the office of any auditor, the surviving auditor or auditors (if any) may act, but if there is no surviving auditor the directors shall forthwith call an extraordinary general meeting for the purpose of supplying the vacancy or vacancies in the auditorship.

(5) Every auditor shall have a list delivered to him of all books kept by the company, and shall at all reasonable times have access to the books and accounts of the company, and any auditor may in relation to such books and accounts examine the directors or any other officer of the company.

(6) The auditor or auditors shall make a report to the members on the accounts examined by him or them and on every balance sheet laid before the company in general meeting during his or their tenure of office; and in every such report shall state whether in his or their opinion the balance sheet referred to in the report is a full and fair balance sheet properly drawn up so as to exhibit a true and correct view of the state of the company's affairs as shown by the books of the company, and such report shall be read before the company in general meeting.

(7) The remuneration of the auditor or auditors shall be fixed by the general meeting appointing such auditor or auditors, and shall be paid by the company.

Signature of balance sheet.

9 Every balance sheet submitted to the annual or other meeting of the members of every banking company registered after the passing of this Ordinance as a company limited shall be signed by the auditor or auditors and by the secretary or manager (if any) and by the directors of the company, or three of such directors at the least.

SCHEDULE.

Form A.

Memorandum of Association of "The ——— Bank, Limited."

First.—The name of the company is "The ——— Bank, Limited."

Second.—The registered office of the company will be situate in ———.

Third.—The objects for which the company is established are—

(1) The carrying on the business of bankers, including making advances of money and dealing in exchange, coin, and bullion.

(2) The acting as agent for any corporation, company, firm, or person in making and obtaining loans and advances on security of stock, funds, debentures, bonds, produce, manufactured goods, and otherwise; and in the transaction of any other monetary business.

(3) The acquisition by purchase, concession, or otherwise of any powers, rights, privileges, or property in ——— or elsewhere, which the company may deem it advantageous to possess for the purpose of occupation, sale, or otherwise, and the acting as agents in relation to any such acquisition.

(4) The doing of all such things as shall be incidental or conducive to the above objects.

Digitized by Google

Fourth.—The liability of the shareholders is limited.

Fifth.—The capital of the company is ———, divided into ———.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite to our respective names :

Names, Addresses, and Descriptions of Subscribers.	Number of Shares taken by each Subscriber.

Dated the ——— day of ———, 18—.

Witness to the above signatures :———.

Table B.

Articles of Association of "The ——— Bank, Limited."

It is agreed as follows :

I.—*Interpretation.*

Interpretation clause.

1. In the interpretation of the memorandum of association and of these presents the following words and expressions have the following meanings, unless excluded by the subject or context :

"Ordinances."

The "Ordinances" mean and include "The Joint Stock Companies' Ordinances, 1861, 1888, and 1893," and "The Joint Stock Banking Ordinance, 1897," and every other Ordinance for the time being in force concerning joint stock companies with limited liability and affecting the company.

"Company."

The "company" means "The ——— Bank, Limited."

"These presents."

"These presents" mean these articles of association and the regulations of the company for the time being in force.

"Capital."

"Capital" means the capital for the time being of the company.

"Shares."

"Shares" or "share warrants" mean respectively the shares or share warrants for the time being of the capital.

"Shareholders."

"Shareholders" mean the duly registered holders from time to time of the shares and the holders of share warrants.

"Directors."

"Directors" mean the directors for the time being of the company, or the directors assembled at a board, as the case may be.

"Board."

"Board" means a meeting of the directors duly called and constituted, or the directors assembled at a board meeting, or the majority according to votes of the directors so assembled, as the case may be.

"Special board."

"Special board" means a board called by three days' notice specifying the special business to be transacted thereat.

"Ordinary meeting."

"Ordinary meeting" means an ordinary meeting of the shareholders of the company duly called and constituted, and any adjourned holding thereof.

Digitized by Google

"Extraordinary meeting" means an extraordinary meeting of the shareholders of the company duly called and constituted and any adjourned holding thereof. "Extraordinary meeting."

"General meeting" means and includes ordinary meeting and extraordinary meeting. "General meeting."

"Office" means the registered office for the time being of the company. "Office."

"Seal" means the common seal for the time being of the company. "Seal."

"Month" means a calendar month. "Month."

"Writing" includes printing and typewriting. "Writing."

Words importing the singular number only include the plural number. Singular number.

Words importing the plural number only include the singular number. Plural number.

Words importing the masculine gender only include the feminine gender. Gender.

II.—*Business.*

2. The business of the company shall include the several objects expressed in the memorandum of association and all matters incidental thereto. Company's business.

3. The company may begin business as soon as it is registered. Commencement of business.

4. The business shall be carried on by or under the management of the directors, subject only to such control of general meetings as is provided for by these presents. Management.

5. No person other than the directors and persons thereunto expressly authorized by the board, and acting within the limits of the authority so conferred on them, shall have any authority to make, draw, accept, or indorse any promissory note, bill of exchange, cheque, or order for the payment of money in the name or on behalf of the company, or to enter into any contract so as to impose thereby any liability on the company, or otherwise to pledge the credit of the company. Making and acceptance of bills.

6. The company shall have a banking-house or office either in ———, or the town of ———, and the board may from time to time establish such branch banking-houses or branch offices in ——— as they from time to time think requisite for the business of the company. Places of business.

III.—*Capital.*

7. The capital of the company shall be issued by the board at several times. The first issue of capital shall be ———, to be allotted and issued by the board to such persons and in such amounts as the directors think fit. The residue of the capital may from time to time be issued by a special board to such persons, at such times, in such amounts, on such terms, and in such manner as such board thinks fit, but not below par. Capital and allotment of shares.

8. The company, by special resolution, may at any time divide the capital or any part thereof by the subdivision of the existing shares, or any of them, into shares of smaller amount than ——— each, provided that in the subdivision of the existing shares the proportion between the amount which is paid and the amount (if any) which is unpaid on each share of reduced amount shall be the same as it was in the case of the existing share or shares from which the share of reduced amount is derived. Shares may be divided into others of smaller amount.

9. The board, with the sanction of the company previously given in general meeting, may convert any paid up shares into stock. Conversion of paid up shares into stock.

Digitized by Google

Transfer of stock.

10. When any shares have been converted into stock the several holders of such stock may thenceforth transfer their respective interests therein, or any part of such interests, in the same manner and subject to the same regulations as, and subject to which, any shares in the capital of the company may be transferred, or as near thereto as circumstances admit. And such of the provisions herein contained with regard to shares, as are not inconsistent with their application to stock, shall apply to the stock into which shares shall have been converted.

Stockholders to participate in dividends, &c.

11. The several holders of such stock shall be entitled to receive any preferential or guaranteed dividend or interest, or to participate in the dividends and profits of the company, as the case may be, according to the description of shares converted and to the amount of their respective interests in such stock; and such interest shall, in proportion to the amount thereof, confer on the holders thereof respectively the same privileges and advantages for the purpose of voting at meetings of the company and for other purposes as would have been conferred by shares of equal amount in the capital of the company, but so that none of such privileges or advantages, except the receipt of such preferential or guaranteed dividend or interest, or the participation in the dividends and profits of the company, as the case may be, shall be conferred by any aliquot part of the consolidated stock, which would not, if existing in shares, have conferred such privileges or advantages.

Increase and reduction of capital.

12. The board, with the sanction of a special resolution, may from time to time increase the capital by the creation of new shares of such respective amounts as they think fit, and with the like sanction may from time to time reduce the amount of the capital by cancelling any shares or share warrants belonging to the company, or otherwise, as the company in general meeting may determine.

New shares to be considered part of the original capital.

13. Any capital raised by the creation of new shares shall, except so far as the company in general meeting, on the creation thereof, otherwise determine, be considered as part of the original capital, and shall be issued by the board, subject to the same provisions in all respects, whether with reference to the payment of money on allotment and calls or the forfeiture of shares on non-payment of such money or calls or otherwise, as if it had been part of the original capital.

IV.—*Shares.*

Acceptance of shares.

14. An application for shares, signed by or on behalf of the applicant, followed by an allotment of any shares thereon, shall be an acceptance of such allotted shares within the meaning of these presents, entitling the board to place the name of the allottee on the register in respect thereof; and every person who thus or otherwise accepts any share, and whose name is on the register, shall, for the purposes of these presents, be a shareholder.

Share warrants to bearer.

15. Share warrants to bearer duly stamped and with the common seal of the company may, if the board thinks fit, be issued in respect of all or any of the shares which are fully paid up, or with respect to stock, on the application of the persons entitled thereto, stating that the bearer of the warrant is entitled to the share or shares or stock therein specified; and the company may provide by coupons or otherwise for the payment of the future interest or dividends on the share or shares or stock included in such warrant.

Effect of share warrants.

16. Share warrants shall entitle the holder for the time being to all the profits and rights of a member of the company, and may be transferred from hand to hand without any written transfer. Provided always that the holder of any such warrant shall not be qualified in respect of the shares or stock specified therein for being a director or manager of the company.

Digitized by Google

Joint Stock Companies.

17. The holder of a share warrant, on delivering the same up to be cancelled, may require to be entered on the register as the member in respect of the share or shares it represents. Re-registration of holder.

18. The holder of a share warrant may, by written notice to the company, require all notices of meetings, notices of dividends, and other notices in respect of shares to be sent to him at such place as he may specify within. Holders may require notices to be sent.

19. Every shareholder shall, on payment of such a sum not exceeding fifty cents as the board shall from time to time prescribe, be entitled to a certificate under the seal of the company specifying the shares held by him and the amount paid thereon. Certificates.

20. If any certificate or share warrant be worn out, lost, or destroyed, it may be renewed on payment of such a sum not exceeding one rupee as the board from time to time prescribes, provided such evidence as the board deem reasonable be afforded of the title of the party applying for the renewal, and such indemnity be given as the board thinks fit to require, and such fees shall be payable on each share warrant brought in to be cancelled upon registration of the holder, and also upon the entry of the name and address of any holder who may require notices to be sent to him. Renewal of certificate.

21. The company shall have a first and paramount lien available at law and in equity upon all the shares of every shareholder, whether held by him solely or jointly with any other person, for all his debts, liabilities, and engagements, of what nature or kind soever, to or with the company; and in case such shareholder becomes bankrupt or compounds with his creditors, the board may absolutely sell, either by private contract or public auction, all the shares registered solely in such shareholder's name, and all his interest in any shares registered in his name jointly with that of any other or others, or such portion thereof as shall be sufficient to discharge or satisfy such debts, liabilities, and engagements, and may apply the proceeds, so far as the same will extend, in discharge or satisfaction of such debts, liabilities, and engagements; and upon such sale the board may, without notice to or consent of such shareholder or any other person whomsoever, transfer all or any of such shares to the purchaser thereof, and may enter such purchaser's name on the register as the holder of such shares. Company's lien on shares.

22. If any share shall stand in the names of two or more persons, the person first named in the register shall, as regards voting at general meetings, receipt of dividends, service of notices and documents, and all or any other matters connected with the company, except the transfer of the share and the company's lien thereon and the payment of money in the nature of a return of capital, be deemed the sole holder thereof. The first named of joint holders deemed sole holder.

23. No share shall be subdivided otherwise than as provided by these presents. No share shall be subdivided.

24. The company shall not be bound by, nor recognize any equitable, contingent, future, or partial interest in any share, nor (except only as is by these presents otherwise expressly provided) any other right in respect of a share than an absolute right thereto, in accordance with these presents, in the person for the time being registered as the holder thereof. Company not bound to recognize any interest in share other than that of registered holder.

25. No shareholder who shall change his name, or being a female, shall marry, and no husband of any such last-mentioned shareholder, shall be entitled to receive any dividend or to vote until notice of the change of name or marriage be given to the company, in order to its being registered. Notice of change of name or marriage of shareholder.

Digitized by Google

V.—*Transfer and Transmission of Shares.*

Register of transfers.

26. The company shall keep, in addition to the register of shareholders, a book to be called the "Register of Transfers," and therein shall be fairly and distinctly entered the particulars of every transfer and transmission of any share, and the book may be from time to time authenticated by having the seal affixed thereto at a general meeting, but share warrants may be transferred from hand to hand without any written transfer or transmission.

Transfer books when closed.

27. The transfer books shall be closed during the fourteen days immediately preceding and on the day of the ordinary meeting in every year, and may be closed by the board for a like period of fourteen days in the half year during which no ordinary meeting is held.

Company may refuse to register transfers.

28. The company may refuse to register any transfer of shares whilst the shareholder making the same is either alone or jointly with any other person indebted to the company on any account whatsoever, and unless the transferee is approved by the board. Before registering any transfer the board may require the certificates of the shares therein mentioned to be left at the office during twenty-four hours for examination.

Titles to shares of deceased holders.

29. The executors or administrators of a deceased shareholder, who shall not during his lifetime have executed a valid transfer of his shares, shall be the only persons recognized by the company as having any title to such shares. The company shall not be affected by notice of any trust.

Registration of persons entitled to shares otherwise than by transfer.

30. Any person becoming interested in a share in consequence of the death, bankruptcy, or insolvency of any shareholder, or the marriage of any female shareholder, or by any other lawful means than transfer, in accordance with these presents, may, upon producing such evidence as the board requires and approves, either be registered himself as the holder of the share or have some person, nominated by him and approved by the board, registered as such holder.

Transfer by such person to his nominee.

31. Any such person as last aforesaid who shall elect to have his nominee registered shall testify his election by executing to such nominee a transfer of the share therein mentioned, but until such transfer is registered he shall not be free from any liability in respect of such share.

Form of transfer to be approved by board.

32. Every transfer of a share shall be in such form as the board from time to time approve, and shall be retained by and presented to the company, accompanied by such evidence as the board require to prove the title of the transferrer. The instrument of transfer shall be executed both by the transferrer and transferee, and the transferrer shall be deemed to remain the holder of such share until the name of the transferee is entered on the register in respect thereof.

Form of transfer.

33. Until the board otherwise determines the following shall be the form of the instrument of transfer, and it shall be under the respective hands of the transferrer and the transferee :

I, *A. B.*, of ——— (in consideration of ——— paid to me by *C. D.*, of ———), do hereby transfer to the said *C. D.* ——— shares of the capital of the ——— Bank, Limited, Nos. ———, standing in my name in the books of the said company, subject to the conditions on which I now hold them. And I, the said *C. D.*, hereby accept the said shares subject to such conditions.

As witness our respective hands this ——— day of ———, 18—.

Board may require evidence of transmission.

34. Every transmission of a share shall be verified in such manner as the board require, and the company may refuse to register any such transmission until the same be so verified.

Digitized by Google

35. There shall be paid to the company, in respect of the registration of the transfer or transmission of any number of shares to the same person or persons, such sum of money not exceeding Rs. 2·50 as the board may from time to time prescribe. Fee on transfer or transmission.

VI.—*Deposit and Calls.*

36. Any moneys which the board, on allotting any shares, requires to be paid by way of deposit or call, or otherwise in respect thereof, shall immediately on the entry of the name of the allottee in the register as the holder of such shares become a debt due to and recoverable from the allottee by the company, and shall be paid by the allottee accordingly. Deposit on allotment of shares to be debt.

37. In addition to such deposit and call as last aforesaid a special board may, from time to time, but subject to the conditions hereinafter mentioned, make such calls upon the shareholders in respect of all moneys unpaid on their shares as such board thinks fit; and every shareholder shall be liable to pay the amount of every call, made in accordance with these presents, to the persons and at the time and place appointed by such board. Board may make calls to be paid by shareholders.

38. Fourteen days' notice at the least shall be given of the time and place appointed by the board for the payment of every call. But such call shall be deemed to have been made and to become due at the time when the resolution authorizing such call was passed. Fourteen days' notice of call to be given.

39. There shall be an interval of at least three months between the times for payment of any calls made subsequent to the date on which the moneys payable on allotment are required to be paid. Interval between calls.

40. No call shall exceed ——— per share. Amount of call.

41. If any shareholder fails to pay the amount payable by him on allotment, or any call due from him on the day appointed for payment thereof, he shall be liable to pay interest for the same at a rate to be fixed by the board at the time of making the allotment or call, from the day appointed for the payment thereof to the time of actual payment (but without prejudice to the provisions herein contained for the forfeiture of the share or shares in respect of which any money payable by way of deposit or call as aforesaid shall be payable), and shall not be entitled to any dividend or bonus that may be payable during the time such call and interest remain unpaid. Calls to carry interest.

42. On the trial or hearing of any action or suit to be brought by the company against any shareholder to recover any debt for money payable on allotment or for any call, it shall be sufficient to prove that the name of the defendant is on the register as a holder of the number of shares in respect of which such debt accrued, and that notice of such payment of call was duly given to the defendant; and it shall not be necessary to prove the appointment of the directors who made such allotment or call, nor that a quorum of directors was present at the board at which such allotment or call was made, nor that the meeting of directors at which such allotment or call was made was duly convened and constituted, nor any other matter whatsoever, save as aforesaid, but the proof of the matters aforesaid shall be conclusive evidence of the debt. Evidence in action for calls.

43. The board may, if they think fit, receive from any shareholder willing to advance the same the whole or any part of the amount remaining unpaid on any share or shares held by him, either in discharge of the amount of a call payable in respect of any other share or shares held by him or without any call having been made; and upon the moneys so paid in advance, or upon so much thereof as from time to time and at any time thereafter exceeds the amount of the calls then made upon and payable in respect of the shares in respect of which such advances have been made, the board may pay dividend or allow interest at such an agreed rate as they from time to time determine. Board may receive advances on shares beyond calls, and pay interest thereon.

Digitized by Google

VII.—*Forfeiture of Shares.*

If call not paid, notice to be given to shareholder.

44. If a shareholder fail to pay any money payable by him to the company in respect of his shares on the day appointed for payment thereof, the board may at any time thereafter, while such money remains unpaid, serve a notice on him or his executors or administrators requiring payment of such money, together with any interest accrued due thereon, and any expenses that may have been incurred by reason of such non-payment.

Terms of notice.

45. The notice shall name a day (not being less than thirteen days from the date of the notice) and a place on and at which such money, interest, and expenses are to be paid, and it shall also state that in the event of the non-payment of such money, interest, and expenses at the time and place appointed, the share in respect of which such money, interest, and expenses are payable will be liable to be forfeited.

In default of payment shares to be forfeited.

46. If the requisitions of such notice as last aforesaid be not complied with, any share in respect of which such notice has been given may at any time thereafter, before payment of the money, interest, and expenses payable in respect thereof, be forfeited by a resolution of the board to that effect.

Notice of forfeiture to shareholder.

47. When any share is declared to be forfeited, notice of the forfeiture shall forthwith be given to the registered holder thereof, and an entry of the forfeiture, with the date thereof, shall forthwith be made in the register of shareholders.

Forfeited share to be property of the company and may be sold, &c.

48. Every share which shall be forfeited shall thereupon become the property of the company, and may be sold, extinguished, re-allotted, or otherwise disposed of, either to the former holder thereof or to any other person, upon such terms and in such manner as the board think fit. Provided always that it shall be lawful for the board, in their discretion, to remit or annul the forfeiture of any such share upon such terms as they think fit, and to cause the entry of forfeiture in respect thereof to be erased from the register of shareholders.

Shareholders still liable to pay calls.

49. Any shareholder or his representatives, whose shares are forfeited, shall, notwithstanding the forfeiture, be liable to pay to the company all sums of money, interest, and expenses payable to the company in respect of such shares at the time of forfeiture, and payment thereof may be enforced by the board, nothwithstanding and without prejudice to such forfeiture.

Forfeiture of share to extinguish claims on the company.

50. The forfeiture of a share shall involve the extinction at the time of such forfeiture of all interest in and all claims and demands whatsoever against the company in respect of such share, except the right to any dividend theretofore declared thereon and then unpaid.

Certificate of forfeiture.

51. A certificate in writing under the seal of the company signed by two directors and countersigned by the manager or by such other officer as the board may appoint, stating that the share therein mentioned has been duly forfeited in pursuance of these presents, and the amount paid thereon and the time when it was forfeited, shall be conclusive evidence of such forfeiture as against all persons claiming to be entitled to such share, and an entry of such certificate shall be made in the minutes of the proceedings of the directors. Such certificate and the receipt of any two directors, countersigned by the manager or by such other officer as aforesaid, for the price of such share, shall constitute a good title to such share, and a certificate of proprietorship shall be delivered to the purchaser thereof, and thereupon he shall be deemed the holder of such share, discharged from all calls prior to such purchase (unless otherwise expressly agreed), and his name shall be entered in the register of shareholders, and he shall not be bound to see to the application of the purchase money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to such forfeiture or sale.

Digitized by Google

52. The board may at any time accept from any shareholder indebted to the company the surrender of any share on such terms as are mutually agreed on, and every share so surrendered shall, on the surrender thereof, be forfeited to the company, and an entry of such forfeiture, with the date thereof, shall forthwith be made in the register of shareholders. **Board may accept surrender of shares.**

VIII.—*Meetings of Shareholders.*

53. The first ordinary meeting of the company shall be held at ———, and at such time, within four months after the incorporation of the company, as the board determines. **First ordinary meeting.**

54. Subsequent ordinary meetings shall be held at least once in every year at such time and place in ——— as the board may from time to time determine. But until the board otherwise appoints every ordinary meeting subsequently to the first shall be held in the month of August in every year. **Subsequent ordinary meetings.**

55. The Board may, whenever they think proper, call an extraordinary meeting, and they shall do so upon receiving a requisition in writing signed by ten or more shareholders, holding in the aggregate not less than ——— shares. Provided always that no such meeting shall be held elsewhere than in ———. **Extraordinary meetings.**

56. Any requisition so made by shareholders shall express the object of the meeting proposed to be called, and shall be left at the office of the board. **Requisition of shareholders to state object of meeting.**

57. Upon the receipt of any such requisition the board shall forthwith convene an extraordinary meeting, and if they neglect to do so for one month after the leaving of the requisition the requisitionists, or any ten or more shareholders holding in the aggregate not less than ——— shares, may convene such meeting in ——— by giving to the shareholders fourteen days' notice thereof at the least, specifying the place, day, and hour of meeting, and the object and business of the meeting. **On receipt of requisition board to call meeting, and in default shareholders may do so.**

58. No resolution passed at an extraordinary meeting convened by requisitionists or shareholders as aforesaid shall be binding on the company, or have any effect, unless and until the same be confirmed by a second extraordinary meeting convened for the purpose by the board, by giving to the shareholders seven days' notice thereof at the least, specifying the several particulars hereinbefore mentioned. **Confirmation of meeting called by shareholders.**

59. An ordinary meeting, without notice in that behalf, may elect directors and auditors, and may receive, and either in whole or in part reject, adopt, or confirm the accounts, balance sheets, and reports of the directors and auditors respectively, and may decide on any recommendation of the board with respect to dividend or bonus, and, subject to the provisions of these presents, may generally discuss any affairs of or relating to the company. **Power of ordinary meetings.**

60. No business shall be transacted at an extraordinary general meeting other than the business specified in the notice of the meeting. **Extraordinary meeting confined to special business.**

61. Not less than seven nor more than fifteen days' notice of every general meeting, specifying the place, time, and hour of meeting, and (except as regards the business to be transacted without notice at ordinary meetings) the objects and business of the meeting shall be given by circular sent by post, or otherwise, to the registered address of every shareholder, whose registered address is in ———, or where the directors think fit, but not otherwise, both by advertisement and by circular. **Seven days' noticeof meeting to be given.**

62. When any general meeting is adjourned for seven days or more, the board shall give not less than four days' notice of the adjournment to all the shareholders, in the same manner as notice was given of the original meeting, and where an advertisement is necessary **Notice of adjourned meetings.**

Digitized by Google

shall advertise the adjourned meeting not less than four days before the day appointed for holding the same; but when such meeting is adjourned for less than seven days, such notice shall, when practicable, be served on each shareholder, and shall be advertised, if an advertisement is necessary, as early as conveniently may be before the day appointed for holding such adjourned meeting.

By whom notice signed.

63. Every notice of a general meeting given by the board shall be signed by the manager or by such other officer as the board may appoint, and every such notice by shareholders shall be signed by at least ten shareholders convening the meeting.

Omission to give notice not to invalidate proceedings.

64. The omission to give such notice to any shareholder, or the non-receipt thereof by such shareholder, shall not invalidate the proceedings of any general meeting convened by the board.

Number of shareholders necessary for transaction of business.

65. Except as otherwise provided by these presents, no business shall be transacted at any general meeting unless there be personally present at the commencement of the business ten or more shareholders entitled to vote.

Five shareholders to be a quorum for certain purposes.

66. Five shareholders entitled to vote shall be a quorum at a general meeting for the purpose of choosing a chairman of the meeting, the declaration of a dividend or bonus recommended by the board, or the adjournment of the meeting.

If required number not present, meeting to be adjourned.

67. If at the expiration of one-half hour after the time appointed for holding a general meeting the required number of shareholders be not present, the meeting, if convened upon the requisition of shareholders, shall be dissolved, but in any other case it may be adjourned to such time on the following day or on such other day and to such place in ——— as the shareholders present at the expiration of the half-hour determine; provided always that if five shareholders entitled to vote be not then present, the meeting shall stand adjourned to the next working day at the same hour and place as were appointed for the original meeting.

Adjourned meeting to transact business.

68. At any adjourned general meeting the shareholders present, whatever their number, shall have power to decide upon all the matters which could probably have been disposed of at the meeting from which the adjournment took place, in case a sufficient number of shareholders had been present thereat; but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

Chairman of meetings.

69. The chairman, if any, of the directors, or during his absence the deputy chairman, if any, or in case of the absence or unwillingness to act of both a director chosen by the directors present, or, in case of the absence of all the directors at the expiration of half an hour from the time appointed for holding the meeting, then a shareholder chosen by the shareholders present, shall preside as chairman at every meeting.

Chairman, with consent, may adjourn meeting.

70. The chairman, with the consent of a majority of the shareholders present at any general meeting, may adjourn such meeting from time to time and from place to place.

Motions to be decided by show of hands or by vote. Chairman to have a casting vote.

71. Every motion submitted to a general meeting (except where otherwise provided by law or by these presents) shall be decided by a simple majority of votes given thereon, and in the first instance by a show of hands. In case of an equality of votes, the chairman shall have a casting vote in addition to his own vote, both on the show of hands and at the poll, if one be demanded.

Chairman's declaration of result conclusive.

72. A declaration by the chairman of any general meeting of the result of a show of hands, division, or poll shall be conclusive, and shall not be questioned, and an entry of such declaration in the book of proceedings of the company shall be sufficient evidence thereof, without proof of the number or proportion of the votes recorded in favour of or against the motion to which such declaration relates.

Digitized by Google

73. If immediately on the declaration of the chairman of a general meeting of a show of hands on any motion submitted to the meeting, and not relating to the appointment of a chairman or the adjournment of the meeting, a poll be demanded by at least ten shareholders present and entitled to vote at the meeting, it shall be taken at such time and place and either by open voting or by ballot as the chairman shall direct, and for that purpose he shall have power to adjourn the meeting, if he think fit to do so, for any time not exceeding fourteen days, and the chairman's declaration of the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. But the demand of a poll or any adjournment of a meeting for taking the same shall not prevent the continuance of such meeting for the transaction of any business other than that on which the poll shall have been demanded.

Poll to be taken if demanded.

74. In case such poll be not taken on the day on which it is demanded, notice shall be given of the time and place of taking it in the same manner as in the case of an adjourned general meeting.

Notice of poll.

75. The proceedings at every general meeting, purporting to have been duly called and constituted, and all resolutions and decisions of such meeting, shall be valid and binding on the company, notwithstanding any defect in the mode of convening or in the constitution of such meeting or otherwise, unless and until they are annulled at an extraordinary meeting called for the purpose within three months after the day on which such meeting was held.

Proceedings and resolutions at meeting to be binding.

IX.—*Votes of Shareholders.*

76. Every shareholder who has been duly registered as the holder of at least five shares for three months previously to any general meeting, or who is the person to whom such shares were originally allotted, or to whom the same may have come by reason of death, bankruptcy, marriage, succession, or otherwise by operation of law, but no other shareholder, shall be entitled to vote at such meeting, and shall have one vote in respect of five shares, and an additional vote for every twenty-five shares beyond the first five up to one hundred and thirty shares ; but no shareholder shall have more than six votes.

Number of votes to which shareholders entitled.

77. If any shareholder be lunatic, idiot, or *non compos mentis*, he may vote by his legally appointed curator, and if any shareholder be a minor, he may vote by his guardian or curator, or any one of his guardians or curators if more than one. But no such curator or guardian shall be entitled to vote unless he shall have deposited in the office, not less than forty-eight hours before the time of holding the meeting at which he proposes to vote, all such evidence as the board may require of his filling the character in respect of which he claims to vote.

How shareholders *non compos mentis* may vote.

78. No shareholder shall be entitled to vote in person or by proxy at any general meeting in respect of any share held by him alone or jointly whilst any call or interest on an unpaid call due from him alone or jointly remains unpaid.

No shareholder in arrear with calls to vote.

79. A shareholder personally present at any general meeting may decline to vote on any question arising thereat, but shall not by so declining be considered as absent from such meeting.

Shareholders may decline to vote.

80. No objection shall be taken to the validity of any vote except at the meeting or poll at which such vote shall be tendered, and the chairman of such meeting shall be the sole judge of the validity of every vote tendered thereat.

Chairman shall decide validity of vote.

81. Votes may be given either personally or by proxy, but every proxy shall be appointed in writing or partly in writing and partly in print under the hand of the appointer, or in the case of a corporation under the hand of the secretary or other chief officer thereof.

Voting in person or by proxy.

Digitized by Google

Form of proxy.

82. Until the board otherwise prescribe, this, with any requisite modifications thereof, shall be the form of the instrument of proxy:

I, *A. B.*, of ———, a shareholder of "The ——— Bank, Limited," appoint *C. D.*, of ———, or him failing, *E. F.*, of ———, both being shareholders of the company, to vote as my proxy at the general meeting of the company to be held at ———, on the ———, 18—, and at any adjournment thereof.

As witness my hand this ——— day of ———, 18—.

The proxy must be a shareholder qualified to vote, and his appointment must be deposited at the office.

83. No person shall be appointed or act as a proxy unless he be a shareholder qualified to vote, and unless the instrument of his appointment be left at the office at least forty-eight hours before the hour for holding the meeting at which he is to vote.

X.—*Directors.*

Appointment of first directors.

84. The first directors, not being less than five in number nor more than fifteen, shall be appointed by the subscribers of the memorandum of association or by a majority of them.

Until such appointment subscribers to act.

85. Until such directors are appointed as aforesaid the subscribers of the memorandum of association shall be the directors of the company, although they may not possess the qualification hereinafter mentioned, and they or any three of them present at a meeting of such subscribers shall have all the powers and indemnities of directors. But immediately upon such appointment such subscribers or such of them as may not be appointed directors shall cease to have any power under these presents.

Duration of office of first directors.

86. The first directors appointed as aforesaid shall continue in office until the ordinary meeting in the year.

Board may add to their number.

87. The directors shall have power at any meeting of the board previously to the first ordinary meeting, by a resolution passed by not less than three-fourths of the whole number of directors for the time being, to appoint any other qualified person or persons as a director or directors, so, however, that the whole number of directors shall at no one time exceed ——— and they, and such new director or directors when so appointed, shall have all the same powers and indemnities as if they had respectively been originally named and appointed in and by these presents.

Board may fill up casual vacancies.

88. The board may at any time fill up any casual vacancy in their number arising from death, resignation, disqualification, or otherwise, by the appointment of any qualified person to act in conjunction with themselves, but the remaining directors may continue to act notwithstanding any such vacancy may not have been filled up as aforesaid, and any person thus appointed shall retain his office so long only as the vacating director would have retained the same if no vacancy had occurred.

Board may increase or reduce number of directors.

89. The board, by a resolution passed by not less than three-fourths of the whole number of directors for the time being, and subject to the approval of the next ordinary meeting, may, at any time after the first ordinary meeting, increase the number of directors to any number not exceeding twenty, or reduce the same to any number not less than three, and they may also determine in what rotation such increased or reduced number shall go out of office.

Two directors to retire annually.

90. At the first ordinary meeting and at the ordinary meeting in every subsequent year prior to the year ———, two of the directors, exclusive of those who were first appointed as aforesaid, shall retire from office. But at the ordinary meeting in the year ——— one-half of the directors who were first appointed shall retire from office, and at the ordinary meeting in the following year the other half of such directors shall retire, and at the ordinary meeting in every subsequent

Digitized by Google

year two directors who have been the longest time in office shall retire, and shall be taken from the whole body of directors, including those who were first appointed as aforesaid.

91. The directors to retire from office at the first ordinary meeting shall, unless the directors otherwise arrange among themselves, be determined by the board by ballot. The directors who retire on any subsequent ordinary meeting shall, unless the directors otherwise arrange among themselves, be re-elected by the board by ballot from those who have been the longest in office. Retiring directors how determined.

92. In case any question shall at any time arise as to which of the directors who have been the same time in office shall retire, it shall be decided by the board by ballot, unless the directors otherwise determine among themselves. Directors who have been same time in office.

93. A director retiring on rotation shall continue in office until the dissolution of the ordinary meeting at which he is to retire, and shall then retire, and his successor shall then come into office. Retiring directors.

94. A retiring director shall be re-eligible, and in case of re-election, the re-elected director shall be considered to be a new director as from the time of his re-election. Directors to be re-eligible.

95. No person shall be eligible to the office of director unless he be the holder of at least ——— shares, and, except as regards the first directors, unless he has held such shares at least six months next preceding the day of election ; nor, except as regards the first directors, unless he has given to the company notice in writing of his willingness to be elected at least five days, and not more than one month, previously to the day of election, and at the time of giving such notice has deposited at the office the certificates of his qualifying shares. Provided that any director retiring by rotation shall be deemed willing and eligible to be re-elected without giving such notice, unless he has given to the company, at least seven days before the day of election, notice in writing of a contrary intention. Qualification of directors.

96. The first directors shall, within twenty-eight days after they accept office, deposit at the office the certificates of their qualifying shares. First directors to deposit shares.

97. The company at the general meeting at which any directors retire shall fill up the vacant offices by electing a like number of directors, unless the meeting, in pursuance of a resolution of the board, shall otherwise determine. But if at any general meeting at which an election of directors ought to take place no such election be made, the meeting, unless it shall otherwise determine in pursuance of such resolution as aforesaid, shall stand adjourned to the next business day at the same time and place ; and if at the adjourned meeting no election takes place, the directors to retire shall continue in office until the then next ordinary meeting, but shall, for the purposes of retirement in rotation, be deemed to be re-elected at the meeting at which the election ought to have taken place. Vacant offices to be filled up at meeting. If election not made, meeting to stand adjourned for purpose of election.

98. A director may at any time give notice in writing of his wish to resign by delivering the notice to the manager, or leaving it at the office ; and on the acceptance of his resignation by a board, but not before, his office shall be vacant. Directors may resign.

99. The remuneration of the directors shall be fixed from time to time by the shareholders at the ordinary general meetings, and such remuneration shall be appropriated by the board out of the funds of the company, and shall be divided among the directors as they from time to time think fit. Remuneration of directors.

100. The office of director shall be vacated— When office of director to be vacated.

(*a*) If he accepts or holds any other office or place of profit under the company other than that of managing director or general manager.

Digitized by Google

(*b*) If he becomes bankrupt or insolvent, or compounds with his creditors.

(*c*) If he is declared lunatic or becomes of unsound mind.

(*d*) If he is absent from the board for more than three consecutive months without the consent of the board.

(*e*) If he ceases to hold the number of shares required to qualify him for the office.

(*f*) If (except only as shareholder of an incorporated company) he participates in the profits of any work done or materials provided for the company. Provided always that he shall not vote in respect of such work or materials done or provided by any incorporated company of which he may be a shareholder, and if he does so vote his vote shall not be counted.

(*g*) If he knowingly and intentionally violate clause 120 of these articles.

Removal of director by general meeting.

101. The company in general meeting may, by special resolution, remove any director before the expiration of his period of office and appoint another qualified person in his stead, and the person so appointed shall in all respects stand in the place of his predecessor.

Audited accounts conclusive.

102. Every account of the board when audited and approved by a general meeting shall be conclusive, except as regards any error discovered therein within three months after the approval thereof, and when any error is discovered therein within that period the account shall forthwith be corrected, and thenceforth shall be conclusive.

XI.—*Directors and Officers.*

Indemnity to directors and others for their own acts.

103. Every director, auditor, manager, secretary, and other officer, and his heirs, executors, administrators, and assigns shall be indemnified by the company from all losses and expenses incurred by them respectively in or about the discharge of their respective duties, except such as happen from their own respective wilful act or default.

Indemnity to directors and others from the acts of other persons.

104. No director or officer, his heirs, executors, administrators, or assigns, shall be liable for any other person whomsoever, or for joining in any receipt or other act of conformity; or for any loss or expense happening to the company by the insufficiency or deficiency of title to any property, or for the insufficiency or deficiency of any security in or upon which any of the moneys of the company shall be invested; or for any loss or damage arising from the bankruptcy, insolvency, or tortuous act of any person with whom any moneys, securities, or effects of the company shall be deposited; or for any loss, damage, or misfortune whatsoever which shall happen in the execution of the duties of his respective office, or in relation thereto, unless the same happens through his own wilful act or default.

Removal of solicitors and manager.

105. The manager, solicitor, and officers (other than auditors) of the company shall be from time to time appointed by special boards, and no solicitor or manager shall be removed from his office except by the resolution of a special board, at which not less than three-fourths of the whole number of directors for the time being are present and concur in the expediency of the removal.

XII.—*Powers and Proceedings of Directors.*

Powers of the board.

106. The business of the company shall be managed by the directors, who, in addition to the powers and authorities by the Ordinances and by these presents expressly conferred upon them, may exercise all such powers, give all such consents, make all such arrangements, and generally do all such acts and things as are or shall be by the Ordinances or by the memorandum of association or by

Digitized by Google

these presents directed or authorized to be exercised, given, made, or done by the company, and are not thereby expressly directed to be exercised, given, made, or done by the company in general meeting, but subject, nevertheless, to such (if any) regulations as are from time to time prescribed by the company in general meeting. But no regulation made by the company in general meeting shall invalidate any prior act of the board which would have been valid if the regulation had not been made.

107. The directors shall meet together for the despatch of business at such times and places as they think fit, and may make such regulations as they think proper for the summoning and holding of boards, and for the transaction of business thereat, and for determining the quorum necessary for the transaction of business. But notwithstanding any such regulation as aforesaid, two directors may at any time require the manager or other proper officer to summon a meeting of the board at the office by giving to all of the directors one clear day's notice in writing, specifying the objects of such meeting. Until any regulations shall be made to the contrary, any three directors present at a meeting of directors duly convened shall form a quorum sufficient for the transaction of business. Meetings of directors.

108. The directors may appoint a president or chairman and when they think fit, a deputy chairman, and determine the period for which they respectively shall retain office. Directors may appoint a chairman and deputy.

109. All boards shall be presided over by the chairman if present, or, in his absence, by the deputy chairman; but if neither a chairman nor a deputy chairman shall have been appointed, or if neither the chairman nor the deputy chairman be present at the time appointed for holding the board, the directors present shall choose one of their number to preside. Appointment of chairman of board meetings.

110. Any question which shall arise at any board shall be decided by a majority of votes, and in case of an equality of votes the chairman thereat shall have a second or casting vote in addition to his own vote. How questions at board meetings decided.

111. The board may delegate any of their powers, other than the power to make calls and to vary the capital of the company and to appoint and remove officers, to committees consisting of such one or more director or directors as the board think fit, and they may from time to time revoke and discharge the appointment of any such committee either wholly or in part and either as to persons or purposes; but every such committee shall, in the exercise of the powers delegated to it, conform to all such regulations as are prescribed for it by the board. All acts done by any such committee, in conformity with such regulations and in fulfilment of the purposes of their appointment, but not otherwise, shall have the like force and effect as if done by the board, and the board may remunerate the members of any special committee, and charge the remuneration to the current expenses of the company. Board may appoint committee.

112. The acts of the board and of any committee appointed by the board and of any person acting as a director shall, notwithstanding any vacancy in the board or committee or of any member of the committee or any want of qualification of any director, be as valid as if no such vacancy or defect or want of qualification existed, and as if every such person had been duly appointed, provided the same be done before the discovery of such vacancy, defect, or disqualification. Acts of board or of committee to be valid notwithstanding informal appointments.

113. The meetings and proceedings of any committee shall be governed by the provisions of these presents for regulating the meetings and proceedings of directors, so far as the same are applicable thereto and are not superseded by the express terms of the appointment of the committee. Meetings of committees.

Digitized by Google

Minutes of proceedings of directors to be kept.

114. The board shall cause minutes to be made in books provided for the purpose of the following matters, viz.:

(1) Of all the appointments of officers and committees made by the board.

(2) Of all the names of the directors present at every board, and of the members of committee present at every meeting of the committee.

(3) Of the proceedings and resolutions of all general meetings.

(4) Of the proceedings and resolutions of all boards and committees.

And any such minute as aforesaid, if signed by some person purporting to be the chairman of the meeting or of the board or committee to which it refers, or by any two directors present thereat, or by the chairman of the next succeeding meeting, shall be receivable in evidence without further proof of the matters therein contained or any other proof.

Custody and use of common seal.

115. The directors shall provide a common seal for the purposes of the company, and may from time to time change the same; and such seal shall be kept by such person and in such manner as the board from time to time determine, but shall not be used except by the authority of a board and in the presence of at least two directors. The directors shall have full power to use the said seal in the execution of all or any of the powers hereby vested in them, or otherwise in relation to the affairs and business of the company as they in their discretion see fit.

Deeds how executed.

116. Every deed, contract, or other instrument to which the seal is required to be affixed shall be signed by two of the directors and countersigned by the manager or by such other officer as the board may appoint.

Expenses of establishing the company.

117. The board shall, out of the funds of the company, pay all costs, charges, and expenses which have been or shall be hereafter incurred or sustained in or about the getting up, registration, and establishing of the company, obtaining the capital thereof, and in any manner in relation or incidental thereto, and in their management of the business of the company the board, without any further power or authority from the shareholders, may do the following things, viz.:

Appointment, supervision, dismissal, and remuneration of proctors. general manager, and officers.

(*a*) They may, except as by these presents is otherwise provided, appoint, and at their pleasure remove or suspend, a proctor or proctors, a general manager, as well as branch or local managers, a secretary, and such other officers, clerks, and servants, either for permanent or temporary or special service, as they from time to time deem expedient for carrying on the business of the company, and may determine their respective duties and powers, and may fix the amount of their respective salaries and emoluments, and may pay the same out of the funds of the company. Provided that they shall in all cases require security to be given by every such manager, secretary, officer, clerk, or servant before he shall enter upon the duties of his office, in such an amount as they think sufficient, to insure the faithful discharge of his duties.

Employment and remuneration of brokers, &c.

(*b*) They may employ such brokers, surveyors, agents, valuers, and other persons as they think necessary to dispose of, survey, examine, or report upon any property of the company, or which may be offered to the company, or for the acquisition of which the directors think it expedient to treat; and may allow and pay out of the funds of the company to the person so employed such commissions, salaries, wages, and other remuneration as the directors deem reasonable.

Digitized by Google

(*c*) They may establish such branch banks and agencies in this colony as they think fit, and may do all such acts, matters, and things as may be necessary for that purpose, and may make such regulations for the management of any such branch bank or agency as the directors from time to time think proper. They may pay the expenses occasioned by any of the matters aforesaid out of the funds of the company, and may from time to time discontinue all or any of such branch banks or agencies as and when they see fit. **Establishment of branch banks, agencies, and local boards.**

(*d*) They may in the name and for the purposes of the company and by any person or persons authorized by them, purchase, draw, make, give, accept, indorse, transfer, discount, issue, and negotiate such bills of exchange, promissory notes, or other negotiable securities as they think desirable for carrying on the business of the company. **Acceptance of bills and promissory notes.**

(*e*) They may lend or advance any part of the funds of the company, upon the security of any bonds, debentures, mortgages, or other securities, whether real or personal or otherwise, to such corporations or individuals and upon such terms as they from time to time think expedient. **Loans and mortgages.**

(*f*) They may purchase, hire, rent, or otherwise acquire, at any place whatever, such lands, houses, and buildings, on such terms and for such estate as they from time to time think advisable. They may pull down, alter, remove, and convert any such houses or buildings and may erect and build such other houses and buildings in lieu thereof on any land so acquired; and may from time to time alter or convert any such houses or buildings in such manner as they consider necessary or advisable for carrying on the business of the company. They may fit up and furnish and insure against loss by fire all or any of such houses or buildings, and may let, or demise, or give possession of the whole or any part of the same, whether fitted up or furnished or otherwise, to such persons and on such terms as to tenancy or occupation as they consider advisable with regard to the interests of the company and the promotion or carrying on of its business. They may from time to time sell and buy in and re-sell, either by public auction or by private contract, any such lands, houses, or buildings as aforesaid, and may otherwise deal with all or any part of the same as they consider conducive to the interest of the company. **Acquisition of business premises.**

(*g*) They shall adopt and carry into effect any contract, agreement, or arrangement already entered into on behalf of the company, whether in relation to any land or buildings intended for its use, or in relation to establishing the company, the raising or obtaining subscriptions for the capital thereof, or otherwise in connection with the promotion or formation of the company, and may enter into and carry into effect any other contract, agreement, or arrangement which they deem expedient, whether with corporations or individuals, for the acquisition or for the disposal of any property, or otherwise in relation to any matter connected with the capital, property, or business or affairs of the company, upon such terms and in such manner as they from time to time deem desirable. **Contracts.**

(*h*) They may give credit or make advances, with or without security, upon cash accounts, to such amount, at such rate of interest, and upon such terms as they think fit, but no director shall vote on any motion respecting the loan or advance of money or otherwise giving credit to himself, his partner, or any relative, or respecting any such loan or advance, or giving credit on any security, or discounting any **As to credits and loans.**

Digitized by Google

bill, promissory note, or other security offered by himself, or where his partner or any relative is the person or one of the persons to receive the money referred to in the motion. No shareholder shall be entitled to demand as of right a cash or other credit, and it shall be entirely in the discretion of the board whether such credit shall be given, and no director shall have any such loan or credit except on good security and by resolution of a special board.

Payment for acquired property.

(*i*) They may pay for the acquisition, pulling down, removal, alteration, conversion, erection, or building of any property by these presents authorized to be acquired by the company either in cash or in shares (to be treated as either wholly or in part paid up), or partly in cash and partly in such shares, or in such other manner as they from time to time deem expedient.

Mortgage and sale of property.

(*j*) They may let, mortgage, sell, or otherwise dispose of any property of the company, either absolutely or conditionally, and in such manner and upon such terms and conditions in all respects as they think fit, and may accept payment or satisfaction for the same in cash or in the company's debentures or in fully paid up or other shares of the company, or partly in cash and partly in such debentures or shares, or in such other manner as the board deem expedient.

Transfer of mortgage and other securities.

(*k*) They may procure or take upon such terms as they deem expedient a transfer of any mortgage or other security affecting any property belonging to the company, or authorized to be acquired for the company, and that whether they have or have not at the time of taking the transfer acquired or entered into any treaty relative to the acquisition of the property, and may pay out of the funds of the company all sums necessary for that purpose.

Amalgamation with or purchase of business of any other company and sale of business.

(*l*) They may, upon such terms and as they think fit, amalgamate with, or purchase or acquire the business, contracts, debts, property, funds, and connection of any company, partnership, or person carrying on, or formed for the purpose of carrying on, or intending to carry on, any business included amongst the objects specified in the memorandum of association, and may pay for the same either in cash or in debentures or in shares (to be treated as either wholly or part paid up), or partly in cash and partly in such debentures or shares, or in such other manner as the board from time to time deem expedient. They may also, after a resolution to that effect has been passed by the votes of three-fourths of the whole number of directors for the time being given at a board specially convened for the purpose of considering the advisability thereof, and confirmed by the resolution of a like number of directors passed at a subsequent meeting specially convened for the purpose of considering the advisability of confirming the previous resolution, and with the assent of an extraordinary meeting of the company specially convened for the purpose of considering the advisability of approving such resolution, sell and transfer for and upon sufficient consideration and indemnity, the whole or any portion of the business, contracts, debts, property, and funds of the company to any other such company, partnership, or person as is hereinbefore mentioned, upon such terms as the board may in that behalf think fit.

May give security for money deposited with the company.

(*m*) They may secure the repayment of any money deposited with the company and the interest thereon by means of deposit notes, bills of exchange, promissory notes, debenture notes or bonds, or in such other manner as is agreed upon between them and the depositor.

Digitized by Google

(n) They may in the name and on behalf of the company issue debentures, bonds, and other obligations of the company at any time and in any form or manner upon any conditions, and for any amount which they may from time to time determine, and may borrow from any person or corporation whomsoever any sum or sums of money either upon mortgage or charge of any of the property of the company or its unpaid capital, whether called up or not, or on bonds or debentures or other obligations of the company, or otherwise as they see fit, and may cause or permit any such mortgages, charges, bonds, debentures, or obligations to be redeemed or transferred as they think fit. Issuing debentures and borrowing money.

(o) They may, for the purpose of securing the repayment of any money so borrowed with interest, make and carry into effect any arrangements which they deem expedient by conveying any property of the company to trustees or otherwise. May secure repayment of borrowed money.

(p) They may invest such part of the funds of the company as is not required to satisfy or provide for immediate demands in or upon Government stocks of Great Britain, of India, or of this colony, or upon such other securities, whether real or personal, as they think expedient, and may from time to time vary such securities and convert the same as occasion requires or as they deem expedient. But they shall not invest or employ any part of the funds of the company in the purchase of its own shares. Investments of funds.

(q) They may institute, conduct, defend, compromise, refer to arbitration, and abandon legal and other proceedings and claims by or against the company or the directors or any officer of the company or otherwise relating to or concerning the property or affairs of the company. Proceedings and claims by and against the company.

(r) They may settle and allow or disallow, in whole or in part, the accounts of any officer, agent, or servant of the company. Settlement of accounts.

XIII.—*Manager.*

118. The manager shall be paid such a salary as the directors from time to time determine ; and in the event of any vacancy occurring in the office of manager, the directors may from time to time supply the vacancy by the appointment of such person as they think fit. The manager's remuneration and filling up vacancies.

119. The manager, before he shall enter upon the duties of his office, shall give such security for the due and faithful performance of his duties, and in such amount, as the board think fit. Manager to give security.

XIV.—*Declaration of Secrecy.*

120. Every director, manager, auditor, proctor, trustee, member of a committee, officer, servant, agent, accountant, or other person employed in the business of the company, shall, before entering upon his duties, sign a declaration pledging himself to observe a strict secrecy respecting all transactions of the company with the customers, and the state of accounts with individuals, and in all matters relating thereto, and shall by the declaration pledge himself not to reveal any of the matters which come to his knowledge in the discharge of his duties, except when required so to do by the board, or by any general meeting, or by a court of law, or by the person to whom the matters relate, and except so far as is necessary in order to comply with any of the provisions of the Ordinances or of these presents. Declaration of secrecy.

XV.—*Accounts.*

121. Every sum paid on behalf of the company, otherwise than in the course of banking business, amounting to rupees one hundred or upwards, shall be paid by a cheque, which shall be signed by two directors, and shall be countersigned by the manager or by such other officer as the board shall appoint for the purpose. Payments by cheque : how cheques to be signed.

Digitized by Google

Payments to be made by order of board, except petty cash.

122. No payment, otherwise than in the course of banking business, shall be made without the order of the board or of a committee of directors, except only payments on petty cash account, for which the board may place such sum as they may think fit at the disposal of the manager or other officer.

Receipts of two directors or appointees to be good.

123. The receipts of two directors or of any person thereto expressly authorized by the board for moneys payable to the company shall be effectual discharges for the same.

Accounts of receipts and expenditure.

124. The directors shall cause true accounts by double entry to be kept of all sums of money received or expended by the company and of the matter respecting which the receipt or expenditure takes place, and of the credits and liabilities of the company, and of all other matters necessary for showing the true state and condition of the company; and the accounts shall be kept in such books and in such manner, and the books of accounts shall be kept in such place or places of security, as the directors appoint.

Preliminary expenses account.

125. All costs, charges, and expenses incurred or sustained in or about the establishment of the company, and subsequent to the registration thereof, including therein the cost of advertising, travelling expenses, printing, stationery, brokerage, commission, furniture and fittings of offices, expenses attendant upon the formation of branch banks and agencies, and all other costs, charges, or expenses which the board consider may be fairly deemed and treated as preliminary, shall be placed to a separate account, to be called the "Preliminary Expenses Account," and shall be chargeable on the funds of the company and may be spread over such period, not being more than three years, as the board deem expedient.

Inspection of documents.

126. No shareholder, unless he be a director or an auditor, or any officer, clerk, accountant, or other person whose duty requires him to do so, shall be entitled to inspect any of the books, accounts, documents, or writings of the company, except such as are produced for that purpose at a general meeting, nor shall any shareholder be entitled in equity to a discovery thereof.

Statement of account and report to be furnished to general meetings.

127. At every ordinary meeting the directors shall lay before the meeting a balance sheet or statement of the accounts of the company made up to a date not more than two months before the meeting from the time when the last preceding statement was made, or in case of the first balance sheet or statement from the commencement of the company, and every such balance sheet or statement shall be accompanied by a report of the directors as to the state and condition of the company, and as to the amount (if any) which they recommend to be paid out of the profits by way of dividend or bonus to the shareholders, and the amount (if any) which they recommend to be retained for the reserve fund; and such statement shall particularize the securities on which the reserve fund is invested.

XVI.—*Audit.*

Accounts to be audited.

128. The accounts of the company shall be from time to time examined, and the correctness of the statements shall be from time to time ascertained, by not less than two auditors, to be appointed in accordance with these presents.

Qualification of auditor.

129. No person shall be eligible as an auditor who is interested otherwise than as a shareholder in any transactions of the company, or who is a director or other officer of the company; and one at least of such auditors shall be an accountant, or a firm of accountants, which firm shall, for the purposes of these presents, be deemed to be one auditor, and any and every member of such firm may act as such auditor.

Notice to be given of

130. No person, not being a retiring auditor, shall be eligible to the office of auditor, unless notice of an intention to propose him at

Digitized by Google

an ordinary meeting be given at least five days and not more than one month before the meeting; and a copy of every such notice shall be posted up at the office during three days before the meeting. intention to propose auditors.

131. The auditors shall be supplied, at least fourteen days before the day for holding an ordinary meeting, with copies of the accounts and balance sheet intended to be laid before the meeting, and it shall be their duty to examine the same with the vouchers relating thereto, and also to examine and report on the assets of the company. Auditors to have copies of statement of account.

132. Within ten days after the receipt by the auditors of the accounts and balance sheet they shall either approve them and report generally thereon, or if they do not see fit to approve them shall report specially thereon, and shall transmit such report to the office of the company. Auditors to report.

133. At least three days before every ordinary meeting a printed copy of the accounts and balance sheet, so audited as aforesaid, shall be sent by the board to every shareholder holding five shares or upwards and resident in Ceylon, in accordance with his registered address. Copy of accounts to be sent.

134. If and whenever the auditors discover or apprehend any error or irregularity, whether wilful or accidental, in any of the accounts or books of accounts of the company, it shall be their duty at once to make and deliver to the board a report in writing thereon. Auditors to report errors and irregularities to board.

135. Every balance sheet or statement of accounts when audited shall, after adoption by a general meeting, be conclusive, except as regards any error discovered therein within three months next after the adoption thereof. Whenever any such error is discovered within that period the balance sheet or statement of accounts shall be forthwith corrected by the auditors, and shall thenceforth be conclusive. Balance sheet or statement of accounts conclusive after approval.

XVII.—*Dividends, Bonus, and Reserve Fund.*

136. The directors may, with the sanction of the company in general meeting, declare a dividend or bonus, or both a dividend and bonus, to be paid to the shareholders in proportion to the amount from time to time paid on their shares (but exclusively of any amount for the time being paid up in advance of calls and carrying interest at an agreed rate), and subject to any special privileges or priority, for the time being subsisting, with regard to any particular shares. Declaration of dividend or bonus.

137. If and as long as ordinary meetings are held once a year only, the directors may, without the sanction of a general meeting, declare half-yearly dividends for those half years during which an ordinary meeting is not held. Provided always that no dividend shall be sanctioned by the shareholders exceeding the amount recommended by the directors. Half-yearly dividends.

138. No dividend or bonus shall be payable except out of the profits arising from the business of the company. All dividends to be paid out of profits.

139. The directors may, before recommending any dividend or bonus, set aside out of the profits of the company such a sum as they think proper as a reserve or guarantee fund. Reserve fund.

140. The reserve fund shall be invested by the directors upon such Government securities, stocks, or funds of Great Britain, India, Ceylon, or of any British colony, or in such other good and easily convertible stocks or securities, other than the shares of the company, as they think fit. To be invested in Government stock.

141. No dividend exceeding five per cent. per annum shall be paid until such reserve fund amounts to a sum equal to one-fifth of the other paid-up capital. Reserve fund to be one-fifth of the capital.

142. The board may from time to time apply such portion as they think fit of the reserve fund to meet contingencies, or for equalizing dividends, or for repairing or maintaining the buildings and premises Application of reserve fund.

39-00

Digitized by Google

connected with the business of the company, or any part thereof, or for any other purpose of the company, which they from time to time deem expedient.

Unpaid dividend or bonus not to bear interest.

143. No unpaid dividend or bonus shall ever bear interest as against the company.

Board may deduct money due for calls.

144. The board may deduct from the interest, dividends, and bonus payable to any shareholder all sums of money due from him to the company on account of calls or interest thereon or otherwise.

Notice to be given of interest and dividends.

145. Notice of all interest, dividend, or bonus payable shall be given to every shareholder entitled thereto.

Forfeiture of unclaimed dividend.

146. Any interest, dividend, or bonus unclaimed for three years after such notice may be forfeited by the board for the benefit of the company, and if the board think fit may be applied in augmentation of the reserve fund.

Board may pay dividend to claimant.

147. Notwithstanding such forfeiture the board may at any time thereafter, if they think fit, as a matter of grace and favour, authorize the payment thereof to any claimant who shall adduce a title thereto to the satisfaction of the board.

XVIII.—*Dissolution of the Company.*

When reserve fund exhausted, extraordinary general meeting to be called.

148. If at any time the directors find that the losses of the company have exhausted the reserve fund and also one-fourth of the paid-up capital, they shall forthwith call an extraordinary meeting, and submit to it a full statement of the affairs of the company.

Events in which company may be wound up and dissolved.

149. If the board shall pass a resolution recommending a dissolution of the company, or that it shall discontinue its business and wind up its affairs, either in contemplation of or in connection with, or in order to effect a transfer of its business, property, and liabilities to any other company, and the continued prosecution of its business by such other company, or without reference to and independently of any such objects, and the company shall by special resolution adopt such recommendation, or if all the members shall in writing under their hands agree thereto, thereupon the affairs of the company shall be wound up by the directors as the liquidators of the company, and they shall continue in office for that purpose, anything hereinbefore contained to the contrary notwithstanding.

Winding up powers of directors.

150. Such directors shall have full power to carry such resolutions or agreement into full and complete effect, and they shall and may have and exercise for such purpose all the powers conferred by the Ordinances upon liquidators appointed in the case of a voluntary winding up of a company, as well as all other powers applicable to such purpose, which might have been exercised by them in reference to their continued prosecution of the company's business, and any other powers which under the circumstances of the case may be conferred upon them by any general meeting, or which may be requisite for enabling them to effect a complete winding up of the affairs of the company and a dissolution thereof.

If directors' powers insufficient, powers of winding up to be applied.

151. If in either of the events stated in the article 149 the powers of the directors shall be found inadequate to enable them to effect a complete winding up of the affairs of the company, then the company shall be wound up so far as remains to be done, in accordance with and subject to such of the provisions of the Ordinances as are applicable to the voluntary winding up of the company under the Ordinances, on the occurrence of any event in which the company may be wound up voluntarily, but without reversing or disturbing any acts or proceedings already done or taken in or towards the winding up of the affairs of the company.

The directors may declare debts irrecoverable.

152. In order to assist in such winding up as aforesaid, it shall be lawful for the directors to declare any debt which they consider to be bad or doubtful to be irrecoverable.

Digitized by Google

153. If any moneys to which upon the winding up of the company any shareholder or his representatives (including therein whatever moneys he or they may be entitled to receive in virtue of this article) shall not be claimed by the person entitled thereto within six months from such day as the directors shall fix by advertisement as being the period within which the same must be claimed or forfeited, such moneys, and all increase, profits, and accumulations made from any investment or employment thereof shall, at the expiration of such period, be forfeited, and be divided and distributed among the rest of the shareholders or their representatives in proportion to their several shares. Moneys not claimed to be divided.

154. When the affairs of the company in the opinion of the directors shall be finally wound up, closed, and settled, the directors may thereupon declare the same by a resolution to be passed by them, and advertise such resolution. Final closing of affairs.

155. The resolution so passed and advertised shall immediately on the expiration of one month from the date of such advertisement, if in the meantime no proceedings shall have been taken on the part of any shareholder or his representatives to prevent the operation thereof, operate and be effectual as a full, final, and complete general mutual release between the shareholders and their representatives *inter se* and between the company, and the shareholders and their representatives, individually and collectively, in respect of all actions, suits, and causes of action and suit, accounts, reckonings, controversies, disputes, claims, and demands which may be subsisting between them, or which either of them are or is entitled to or can or may have, maintain, bring, prosecute, recover, or set up against any other or others of them, touching the property or affairs of the company, or the management or disposal thereof, or any act, deed, matter, or thing done, committed, executed, omitted, neglected, occasioned, or suffered by the directors or any other person in connection therewith, as fully and completely as if a release to the same extent had been contained in and made by deed or deeds duly made between and executed by and between such shareholders or their representatives *inter se*, and by and between them and the company respectively. By resolution.

XIX.—*Notices.*

156. Any notice or other document required to be served by the company upon any shareholder may be served either personally or by leaving it for or sending it through the post in a prepaid letter addressed to the shareholder at his registered place of abode in Ceylon, and every notice or document sent through the post shall be deemed to have been served at the time at which, in the usual course of post, it or the letter containing it ought to have been delivered at the place to which it is addressed; and in proving such service by post, it shall be sufficient to prove that the notice or document, or the letter containing it, was properly addressed and put into the post office, and the postage thereon paid. Service of notices on shareholders.

157. Any notice or other document required to be served upon the company by any shareholder may be served by leaving the same at the office, or by sending it through the post in a prepaid letter addressed to the company at the office; and in proving such service by post it shall be sufficient to prove that the notice or document, or the letter containing it, was properly addressed and put into the post office, and the postage thereon paid. Services of notices by shareholders.

158. As to any shareholder whose registered place of abode is not in Ceylon, the office shall, as regards the service of notices or other documents, be deemed his registered place of abode in Ceylon, and such notices or other documents shall be deemed to have been served upon him there. But such shareholder may register any place in Service of notices on shareholders residing out of Ceylon.

Digitized by Google

Ceylon at which he desires such service to be made, and the same shall be made accordingly.

Advertisements.

159. All notices required by these presents to be or which may be given by advertisement shall be advertised in the *Government Gazette* and in one of the Colombo local newspapers, and shall be deemed to have been sufficiently given if so advertised.

Shareholders bound by notices, &c., given to previous holders.

160. Every person who by operation of law, transfer, or other means whatsoever shall become entitled to any share, shall be bound by any and every notice or other document which, previous to his name and address being upon the register in respect of the share, has been given to the person from whom he derives his title.

Service of notices good notwithstanding death of shareholder.

161. When any notice or document is served, delivered, or sent in accordance with these presents, at or to the registered place of abode of a shareholder, then, notwithstanding he be then deceased, and whether or not the company has notice of his decease, such service of the notice or other document shall, for all the purposes of these presents, be deemed service thereof on his heirs, executors, or administrators, and every of them, notwithstanding they are not named therein.

XX.—*Arbitration.*

All disputes to be referred to arbitration.

162. Every matter which, in accordance with these presents, and every difference between the company on the one hand and any of the shareholders, their heirs, executors, or administrators on the other hand, or between any of the shareholders, their heirs, executors, or administrators, in any way relating to any of the subject-matters of these presents, or any claim or demand arising out of or relating to the same, shall be referred to and determined by arbitration under the provisions of "The Civil Procedure Code, 1889," in that behalf contained, or under the provisions of any other Ordinance for the time being in force relating to arbitrations and awards.

Ratification of act.

163. All acts, matters, and things heretofore done for or on behalf of the company by the promoters and by the subscribers to the memorandum of association are hereby confirmed and adopted by the company.

Form C.

1. The capital of the company is Rs. ———, divided into ——— shares of Rs. ——— each.

2. The number of shares issued is ———.

3. Calls to the amount of Rs. ——— per share have been made, under which the sum of Rs. ——— has been received.

4. The liabilities of the company on the first day of January (*or* July) were:

Debts owing to sundry persons by the company, ———.
On judgment, Rs. ———.
On bonds, Rs. ———.
On notes or bills, Rs. ———.
On simple contracts, Rs. ———.
On estimated liabilities, Rs. ———.

5. The assets of the company on that day were:

Government securities, Rs. ———.
Bills of exchange and promissory notes, Rs. ———.
Cash at the bankers, Rs. ———.
Other securities, Rs. ———.

11th February, 1897.

Digitized by Google

No. 5 of 1861.

An Ordinance relating to Wrecks, Sea Casualties, and Salvage.

(*As amended by No. 4 of 1862; No. 4 of 1863, repealed by No. 6 of 1899; and No. 3 of 1883, repealed by No. 15 of 1898.*)

(*See No. 4 of 1862 and No. 6 of 1899; and English Acts 32 Vict. chap. 11, and 45 Vict. chap. 76.*)

Preamble.

WHEREAS it is expedient more effectually to provide for wrecks, sea casualties, and salvage, within the limits of Ceylon: It is therefore enacted as follows:

Interpretation of terms.

1 In the construction and for the purposes of this Ordinance (if not inconsistent with the context or subject-matter) the following terms shall have the respective meanings hereinafter assigned to them; (that is to say,)

"Receiver" shall mean any person appointed in pursuance of this Ordinance receiver of wrecks:
"Master" shall include every person (except a pilot) having command or charge of any ship:
"Person" shall include body corporate:
"Ship" shall include every description of vessel used in navigation not propelled by oars:
"Wreck" shall include jetsam, flotsam, lagan, and derelict, found in or on the shores of the sea or any tidal water.

Appointment of Superintendent of Wrecks and Receivers.

Principal Collector of Customs to be superintendent of wrecks, and Governor to appoint receivers.

2 The Principal Collector of Customs shall throughout Ceylon have the general superintendence of all matters relating to wrecks; and it shall be lawful for the Governor to appoint any officer of customs or any other person to be a receiver of wrecks in any district, and to perform such duties as are hereinafter mentioned, and due notice of every such appointment shall be published in the *Government Gazette.*

3-6 Repealed by No. 4 of 1863, itself repealed by No. 6 of 1899.

Duties of Receivers.

Duty of receiver when any ship is stranded or in distress.

7 Whenever any ship or boat is stranded or in distress at any place on the shore of the sea, or of any tidal water within the limits of Ceylon, the receiver of the district within which such place is situate shall, upon being made acquainted with such accident, forthwith proceed to such place and take the command of all persons present, and assign such duties to each person and issue such directions as he may think fit, with a view to the preservation of such ship or boat, and the lives of the persons belonging thereto, and the cargo and apparel thereof; and if any person wilfully disobeys such directions he shall forfeit a sum not exceeding fifty pounds; but it shall not be lawful for such receiver to interfere between the master of such ship or boat and his crew in matters relating to the management thereof, unless he is requested so to do by such master.

Digitized by Google

Powers of receiver in case of such accident to any ship or boat.

8 The receiver may, with a view to such preservation as aforesaid of the ship or boat, persons, cargo, and apparel, do the following things; (that is to say,)

(1) Summon such number of men as he thinks necessary to assist him:

(2) Require the master or other person having the charge of any ship or boat near at hand to give such aid with his men, ship, or boats as may be in his power:

(3) Demand the use of any waggon, cart, horses, or bullocks that may be near at hand.

And any person refusing without reasonable cause to comply with any summons, requisition, or demand so made as aforesaid, shall for every such refusal incur a penalty not exceeding £100.

All articles washed on shore, or lost or taken from any ship or boat, to be delivered to the receiver.

9 All cargo and other articles belonging to such ship or boat as aforesaid that may be washed on shore, or otherwise be lost or taken from such ship or boat, shall be delivered to the receiver; and any person, whether he is the owner or not, who secretes or keeps possession of any such cargo or article, or refuses to deliver the same to the receiver or to any person authorized by him to demand the same, shall incur a penalty not exceeding £100; and it shall be lawful for such receiver or other person as aforesaid to take such cargo or article by force from the person so refusing to deliver the same.

Power of receiver to suppress plunder and disorder by force.

10 Whenever any such accident as aforesaid occurs to any ship or boat, and any person plunders, creates disorder, or obstructs the preservation of such ship, boat, lives, or cargo, as aforesaid, it shall be lawful for the receiver to cause such person to be apprehended, and to use force for the suppression of any such plundering, disorder, or obstruction as aforesaid, with power to command all Her Majesty's subjects to assist him in the use of such force; and if any person is killed, maimed, or hurt by reason of his resisting the receiver in the execution of the duties hereby committed to him, or any person acting under his orders, such receiver or other person shall be freely and fully indemnified as well against the Queen's Majesty, her heirs and successors, as against all persons so maimed or hurt, and against the heirs, executors, administrators, or other representatives of the persons so killed.

Certain officers to exercise powers of receiver in his absence.

11 During the absence of the receiver from the place where any such accident as aforesaid occurs, or in places where no receiver has been appointed under this Ordinance, the following officers in succession, each in the absence of the other, in the order in which they are named: (that is to say,) the principal officer of customs in the district, or master attendant, or government agent, or assistant government agent, or superintendent or assistant superintendent of police, and also any justice of the peace, commissioned

Digitized by Google

officer on full pay in the naval service of Her Majesty, or commissioned officer on full pay in the military service of Her Majesty, may do all matters and things hereby authorized to be done by the receiver, with this exception, that with respect to any goods or articles belonging to any such ship or boat the delivery up of which to the receiver is hereinbefore required, any officer so acting shall be considered as the agent of the receiver, and shall place the same in the custody of the receiver; and no person so acting as substitute for any receiver shall be entitled to any fees payable to receivers, or be deprived by reason of his so acting of any right to salvage to which he would otherwise be entitled.

12 Whenever any such accident as aforesaid occurs to any ship or boat, all persons may, for the purpose of rendering assistance to such ship or boat, or saving the lives of the persons on board the same, or the cargo or apparel thereof, unless there is some public road equally convenient, pass and repass, either with or without carriages, horses, or cattle, over any adjoining lands, without being subject to interruption by the owner or occupier, so that they do as little damage as possible, and may also, on the like condition, deposit on such lands any cargo or other article recovered from such ship or boat; and all damage that may be sustained by any owner or occupier in consequence of any such passing or repassing or deposit as aforesaid shall be a charge on the ship, boat, cargo, or article in respect of or by which such damage was occasioned, and shall, in default of payment, be recoverable as salvage is hereby made recoverable, and the amount payable in respect thereof, if disputed, shall be determined as disputed salvage is hereby directed to be determined.

Power in case of a ship being in distress to pass over adjoining lands with carriages.

13 If the owner or occupier of any land over or on which any person is hereby authorized to pass, repass, or deposit as aforesaid for any of the purposes hereinbefore mentioned, does any of the following things; (that is to say,)

Penalty on owners and occupiers of land refusing to allow carriages, &c., to pass over their land.

(1) Impedes or hinders any such person from so passing or repassing, with or without carriages, horses, cattle, and servants, by locking his gates or placing any barrier, refusing, upon request, to open such gates or remove such barrier, or otherwise however;

(2) Impedes or hinders the deposit of any cargo or other article recovered from any such ship or boat as hereinbefore mentioned;

(3) Prevents such cargo or other articles from remaining so deposited for a reasonable time, until the same can be removed to a safe place of deposit;

he shall for every such offence incur a penalty not exceeding twenty pounds.

14 Any receiver, or in his absence any justice of the peace, shall, as soon as conveniently may be, examine upon

Power of receiver to

Digitized by Google

institute examination with respect to ships in distress.

oath (which oath they are hereby respectively empowered to administer) any person belonging to any ship which may be or may have been in distress on the coast of Ceylon, or any other person who may be able to give any account thereof, or of the cargo or stores thereof, as to the following matters; (that is to say,)

(1) The name and description of the ship;
(2) The name of the master and of the owners;
(3) The names of the owners of the cargo;
(4) The ports or places from and to which the ship was bound;
(5) The occasion of the distress of the ship;
(6) The services rendered;
(7) Such other matters or circumstances relating to such ship or to the cargo on board the same as the receiver or justice thinks necessary.

And such receiver or justice shall take the examinations down in writing, and shall make a copy of the same, which he shall send to the Principal Collector of Customs, who shall place the same in some conspicuous situation for the inspection of persons desirous of examining the same, and shall otherwise give such publicity thereto as he shall consider necessary.

Original or certified copy of examination to be *primâ facie* evidence.

15 Any such examination or a copy thereof certified under the hand of such receiver or justice shall be admitted in evidence in any court of justice, or before any person having by law or by consent of parties authority to hear, receive, and examine evidence, as *primâ facie* proof of all matters contained in such examination.

Rules to be observed by persons finding wreck.

16 The following rules shall be observed by any person finding or taking possession of wreck within Ceylon; (that is to say,)

(1) If the person finding or taking possession of wreck is the owner, he shall as soon as possible give notice to the receiver of the district within which such wreck is found, stating that he has found or taken possession of the same, and he shall describe in such notice the marks by which such wreck is distinguished.
(2) If any person not being the owner finds or takes possession of any wreck, he shall as soon as possible deliver the same to such receiver.

And if the owner makes default in performing the several things the performance of which is hereby imposed on the owner, he shall incur a penalty not exceeding £50.

Any person who makes default in performing the several things the performance of which is hereby imposed on any person not being an owner shall forfeit all claim to salvage, and shall pay to the owner of such wreck, if the same is claimed, but if the same is unclaimed, then to the person entitled to such unclaimed wreck, double the value of such

Digitized by Google

wreck (such value to be recovered in the same way as a penalty of like amount), and he shall incur a penalty not exceeding £50.

17 Any receiver suspecting or receiving information that wreck is secreted, or in the possession of some person who is not the owner thereof, or otherwise improperly dealt with, may apply to any justice of the peace for a warrant; and such justice may grant a warrant for the receiver to enter into any house or place, and also into any ship or boat, and to search for, seize, and detain any such wreck there found; and if any such seizure is made in consequence of information that may have been given by any person to the receiver, the informer shall be entitled, by way of salvage, to such a sum, not exceeding in any case five pounds, as the receiver may allow.

Power for receivers to seize concealed wreck.

18 Every receiver shall, within forty-eight hours after taking possession of any wreck, cause to be posted up in the custom house of the port nearest to the place where such wreck was found a description of the same, and of any marks by which it is distinguished, and shall give such publicity thereto otherwise as the Principal Collector of Customs shall direct.

Notice of wreck to be given by receiver.

19 In cases where any wreck in the custody of any receiver is under the value of £5, or is of so perishable a nature or so damaged that the same cannot, in his opinion, be advantageously kept, or if its value is not sufficient to defray the charge of warehousing, the receiver may sell the same before the expiration of the period hereinafter mentioned, and the money raised by such sale, less the expenses thereof, shall be held by the receiver for the same purposes, and subject to the same claims, for and to which the article sold would have been held liable if it had remained unsold.

Goods deemed perishable or of small value may be sold immediately.

20 There shall be paid to all receivers appointed under this Ordinance the expenses properly incurred by them in the performance of their duties, and also such fees as may from time to time be directed by the Governor, with the advice and consent of the Executive Council, and the receiver shall have the same lien and be entitled to the same remedies as for the recovery of such expenses and fees as a salvor has or is entitled to in respect of salvage due to him; but save as aforesaid no receiver appointed under this Ordinance shall, as such, be entitled to any remuneration whatsoever.

Remuneration to receivers.

Salvage in Ceylon.

21 Whenever any ship or boat is stranded or otherwise in distress on the shore of any sea of or tidal water in Ceylon, and services are rendered by any person :

Salvage in respect of services rendered in Ceylon.

(1) In assisting such ship or boat:

(2) In saving the lives of the persons belonging to such ship or boat:

Digitized by Google

(3) In saving the cargo or apparel of such ship or boat, or any portion thereof :

And whenever any wreck is saved by any person other than a receiver :

The owners of such ship or boat, cargo, apparel, or wreck, shall pay to the person by whom such services are rendered, or by whom such wreck is saved, a reasonable amount of salvage, together with all expenses incurred by him in the performance of such services, or the saving of such wreck, the amount of such salvage and expenses (which expenses are hereinafter included under the term salvage) to be determined in case of dispute in manner hereinafter mentioned.

Salvage for life.

22 Salvage in respect of the preservation of the life or lives of any person shall be payable in priority to all other claims for salvage, and in cases where a ship or boat is destroyed, or where the value thereof is insufficient, after payment of the actual expenses incurred for the amount of salvage due in respect of any life or lives, the Governor, with the advice and consent of the Executive Council, may award to the salvors of such life or lives, out of the public revenue, such sum or sums as he may deem fit.

Disputes as to salvage how to be settled.

23 Disputes between the owners of any such ship, boat, cargo, or apparel as aforesaid and the salvors as to the amount of salvage, and amongst several salvors as to the apportionment thereof, shall, if the parties cannot agree to settle the same by arbitration or otherwise, be determined by the competent court having jurisdiction in that behalf.

Payment of salvage to whom to be made in case of dispute as to apportionment.

24 Whenever the salvage in respect of services rendered has been ascertained, and any of the salvors are absent, the party liable to pay the salvage may apply to the receiver of the district for liberty to pay the salvage to him ; and he shall, if he thinks fit, receive the same and grant a certificate under his hand, stating such payment and the services for which it is made ; and such certificate shall be a full discharge to the person to whom it is given against the claims of all persons in respect of the services therein mentioned.

Apportionment of salvage by receiver and payment over.

25 Upon the receipt of any such amount the receiver shall proceed to distribute the same among the several persons entitled thereto, and pay the share of each on application being made to him for that purpose.

Manner of enforcing payment of salvage.

26 Whenever any salvage is due to any person under this Ordinance the receiver shall act as follows ; (that is to say,)

(1) If the salvage is due in respect of services rendered in assisting any ship or boat, or in saving the lives of persons belonging to the same, or the cargo or apparel thereof, he shall detain such ship or boat, and the cargo and apparel belonging thereto, until

Digitized by Google

payment is made, or process has been issued by some competent court for the detention of such ship, boat, cargo, or apparel:

(2) If the same is due in respect of the saving of any wreck, and such wreck is not sold as unclaimed in pursuance of the provisions hereinafter mentioned, he shall detain such wreck until payment is made, or process has been issued in manner aforesaid; but it shall be lawful for the receiver, if at any time previous to the issue of such process security is given to his satisfaction for the amount of salvage due, to release from his custody any ship, boat, cargo, apparel, or wreck so detained by him as aforesaid, and in all cases where bond or other security is given to the receiver it shall be lawful for the salvor, or for the owner of the property salved, or their respective agents, to institute proceedings in a competent court for the purpose of having the questions arising between them adjudicated upon, and the said court may enforce payment of the said bond or other security in the same manner as if bail had been given in the said court.

27 Whenever any ship, boat, cargo, apparel, or wreck is detained by any receiver for non-payment of any sums so due as aforesaid, and the parties liable to pay the same are aware of such detention, then in the following cases: (that is to say,)

Power of receiver to sell property salved in cases of non-payment.

(1) In cases where the amount is not disputed, and payment thereof is not made within twenty days after the same has become due:

(2) In cases where the amount is disputed, and no appeal is taken from the first tribunal by which the dispute is decided, and payment thereof is not made within twenty days after the decision of tribunal:

(3) In cases where the amount is disputed, and an appeal is taken from the decision of the first tribunal to some other tribunal, and payment thereof is not made within such twenty days as last aforesaid, or such proceedings as are according to the practice of such other tribunal necessary for the prosecution of an appeal are not instituted within such twenty days:

The receiver may forthwith sell such ship, boat, cargo, apparel, or wreck, or a sufficient part thereof, and out of the proceeds of the sale, after payment of all the expenses thereof, defray all sums of money due in respect of expenses, fees, and salvage, paying the surplus, if any, to the owners of the property sold, or other the parties entitled to receive the same.

Subject to the payment of such expenses, fees, and salvage as aforesaid, the owner of any wreck who establishes his claim thereto to the satisfaction of the receiver, within one

Subject to payment of expenses, fees,

Digitized by Google

and salvage, owner entitled to wreck.

year from the date at which such wreck has come into the possession of the receiver, shall be entitled to have the same delivered up to him.

28 Repealed by No. 4 of 1862.

29, 30 Repealed by No. 3 of 1883, itself repealed by No. 15 of 1898.

Miscellaneous.

All goods found derelict to be subject to the same duties as on importation.

31 All wrecks shall be subject to the same duties as if the same were imported into Ceylon.

Goods saved from ships wrecked to be forwarded to the ports of their original destination.

32 The Principal Collector of Customs shall permit all goods, wares, and merchandise saved from any ship stranded or wrecked to be forwarded to the port of its destination or shipment, but he is to take security, for the due protection of the revenue, in respect of such goods, wares, and merchandise.

In case of wreck of foreign ships, consul-general or other consular officer to be deemed agent of owner.

33 Whenever any article, belonging to or forming part of any foreign ship which has been wrecked on or near the coasts of Ceylon, or belonging to or forming part of the cargo thereof, are found on or near such coasts, or are brought into any port in Ceylon, the consul-general of the country to which such ship, or, in the case of cargo, to which the owners of such cargo may have belonged, or any consular officer of such country authorized in that behalf, shall, in the absence of the owner of such ship or articles and of the master or other agent of the owner, be deemed to be the agent of the owner, so far as relates to the custody and disposal of such articles.

Commencement of Ordinance.

34 This Ordinance shall come into operation from the date of the passing thereof.

2nd October, 1861.

No. 4 of 1862.

An Ordinance to amend the Ordinance No. 5 of 1861.

Preamble.

WHEREAS it is expedient to amend the Ordinance No. 5 of 1861, intituled "An Ordinance relating to Wrecks, Sea Casualties, and Salvage :" It is enacted as follows :

Repeal.

1 The 28th section of the said Ordinance is repealed.

Unclaimed wreck in Ceylon.

2 In the event of no owner establishing a claim to wreck found in Ceylon before the expiration of a year from the date at which the same has come into the possession of the receiver, the receiver shall, at the expiration of such year, sell the wreck, and after paying the expenses of the sale, and deducting therefrom his fees and all expenses (if any) incurred by him, and paying to the salvors such amount of salvage as the Principal Collector of Customs may, with the sanction of the Governor in each case, or by any general rule, determine, deposit the balance of the produce of the sales in the Treasury, that the same may be carried to and made part of the consolidated fund of the United Kingdom of Great Britain and Ireland, in virtue of and in

Digitized by Google

accordance with the provisions of the Act of the first year of Her Majesty, chapter two, "For the support of Her Majesty's household, and of the honour and dignity of the Crown of the United Kingdom of Great Britain and Ireland."

3 This Ordinance shall take effect from the day of the passing thereof. Commencement.

1st October, 1862.

No. 6 of 1899.

An Ordinance to amend the Law relating to Inquiries into Shipping Casualties and the conduct of Ships' Officers.

WHEREAS by section 478 of the Act of the Imperial Parliament called "The Merchant Shipping Act, 1894," it is enacted that the Legislature of any British possession may authorize any court or tribunal to make inquiries as to shipwrecks, or other casualties affecting ships, or as to charges of incompetency or misconduct on the part of masters, mates, or engineers of ships in certain cases: And it is expedient to authorize district courts to exercise the powers set out in the said Act: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1 In the construction of this Ordinance the following expressions shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction: Interpretation clause.

(1) The expression "the Board of Trade" shall mean the Lords of the Committee for the time being of the Privy Council appointed for the consideration of matters relating to trade and foreign plantations.

(2) The expression "High Court" shall mean Her Majesty's High Court of Justice in England.

2 On and from the day on which this Ordinance comes into operation the Ordinance No. 4 of 1863, intituled "An Ordinance to authorize District Courts to institute Inquiries into Wrecks," shall be repealed, except as to all proceedings or matters which shall have taken place before this Ordinance comes into operation. Repeal.

3 (1) It is hereby declared that district courts shall have jurisdiction to make inquiries as to shipwrecks, or other casualties affecting ships, or as to charges of incompetency or misconduct on the part of masters, mates, or engineers of ships, in the following cases, viz.: Authority to district courts to make inquiries into shipping casualties and conduct of officers.

(*a*) Where a shipwreck or casualty occurs to a British ship on or near the coasts of Ceylon or to a British ship in the course of a voyage to a port in Ceylon.

(*b*) Where a shipwreck or casualty occurs in any part of the world to a British ship registered in Ceylon.

(*c*) Where some of the crew of a British ship which has been wrecked, or to which a casualty has occurred, and who are competent witnesses to the facts, are found in Ceylon.

(*d*) Where the incompetency or misconduct has occurred on board a British ship on or near the coasts of Ceylon, or on board a British ship in the course of a voyage to a port in Ceylon.

(*e*) Where the incompetency or misconduct has occurred on board a British ship registered in Ceylon.

(*f*) When the master, mate, or engineer of a British ship, who is charged with incompetency or misconduct on board that British ship, is found in Ceylon.

Digitized by Google

(2) District courts shall have the same jurisdiction over the matter in question as if it had occurred within their ordinary jurisdiction, but subject to all provisions, restrictions, and conditions which would have been applicable if it had so occurred.

Inquiries and Investigations as to Shipping Casualties.

Shipping casualties.

4 For the purpose of inquiries and investigations under this Ordinance a shipping casualty shall be deemed to occur :

(1) When on or near the coasts of Ceylon any ship is lost, abandoned, or materially damaged.

(2) When on or near the coasts of Ceylon any ship has been stranded or damaged, and any witness is found in Ceylon.

(3) When on or near the coasts of Ceylon any ship causes loss or material damage to any other ship.

(4) When any loss of life ensues by reason of any casualty happening to or on board any ship on or near the coasts of Ceylon.

(5) When in any place any such loss, abandonment, material damage, or casualty as above-mentioned occurs, and any witness is found in Ceylon.

(6) When in any place any British ship is stranded or damaged, and any witness is found in Ceylon.

(7) When any British ship is lost or is supposed to have been lost and any evidence is obtainable in Ceylon as to the circumstances under which she proceeded to sea or was last heard of.

Preliminary inquiry into shipping casualties.

5 When a shipping casualty has occurred, a preliminary inquiry may be held respecting the casualty by the following persons, namely:

(*a*) Where the shipping casualty occurs on or near the coasts of Ceylon, by the receiver of wrecks residing at or nearest to the place where such loss, abandonment, damage, or casualty occurred.

(*b*) Where the shipping casualty occurs elsewhere, by the receiver of wrecks residing at or near any place at which the witnesses with respect to the casualty arrive or are found or can be conveniently examined; or

(*c*) By any other person appointed for that purpose by the Governor to make inquiry respecting such loss, abandonment, damage, or casualty.

Formal investigation of shipping casualties.

6 (1) A person authorized as aforesaid to make a preliminary inquiry shall, in any case where it appears to him requisite or expedient (whether upon a preliminary inquiry or without holding such inquiry) that a formal investigation should be held, and in any case where the Principal Collector of Customs so directs, apply to any district court to hold a formal investigation, and the district court shall thereupon hold the formal investigation.

(2) The court holding any such formal investigation shall hold the same with the assistance of one or more assessors of nautical, engineering, or other special skill or knowledge, to be appointed out of a list of persons for the time being approved for the purpose by the Governor, with the advice of the Executive Council, in such manner and according to such general rules as may be prescribed by the Governor, with the advice of the Executive Council, under section 13.

(3) Where a formal investigation involves or appears likely to involve any question as to the cancelling or suspension of the certificate of a master, mate, or engineer, the court shall hold the investigation with the assistance of not less than two assessors having experience in the merchant service.

(4) It shall be the duty of the person who has applied to a court to hold a formal investigation to superintend the management of the case, and to render such assistance to the court as in his power.

Digitized by Google

(5) Each assessor shall either sign the report or state in writing to the Board of Trade his dissent therefrom and the reasons for that dissent.

(6) The court after hearing the case shall make a report to the Board of Trade containing a full statement of the case, and of the opinion of the court thereon, accompanied by such report of or extracts from the evidence and such observations as the court thinks fit.

(7) The court may make such order as the court thinks fit respecting the costs of the investigation or any part thereof, and such order shall be enforced by the court as an order for costs in its ordinary jurisdiction.

(8) For the purposes of this Ordinance the court holding a formal investigation shall have all the powers it has when acting as a court in the exercise of its ordinary jurisdiction.

(9) Every formal investigation into a shipping casualty shall be conducted in such manner that if a charge is made against any person that person shall have an opportunity of making a defence.

7 When any loss of life arises by reason of any casualty happening to or on board any boat belonging to a fishing vessel, the Principal Collector of Customs may, if he thinks fit, cause an inquiry to be made or a formal investigation to be held as in the case of a shipping casualty, and the provisions of this Ordinance relating thereto shall apply accordingly. Inquiry in case of loss of life from fishing vessel's boat.

Power as to Certificates of Officers.

8 (1) The certificate of a master, mate, or engineer may be cancelled or suspended— Power of court of investigation or inquiry as to certificates.

(*a*) By a court holding a formal investigation into a shipping casualty under this Ordinance, if the court finds that the loss or abandonment of, or serious damage to, any ship or loss of life has been caused by his wrongful act or default, provided that the court holding the formal investigation shall not cancel or suspend a certificate unless one at least of the assessors concurs in the finding of the court.

(*b*) By a court holding an inquiry under this Ordinance into the conduct of a master, mate, or engineer, if the court finds that he is incompetent, or has been guilty of any gross act of misconduct, drunkenness, or tyranny, or that in a case of collision he has failed to render such assistance or give such information as is required under the fifth part of "The Merchant Shipping Act, 1894."

(2) Where any case before any such court as aforesaid involves a question as to the cancelling or suspending of a certificate, that court shall, at the conclusion of the case or as soon afterwards as possible, state in open court the decision to which it has come with respect to the cancelling or suspending thereof.

(3) The court shall in all cases send a full report on the case with the evidence to the Board of Trade, and shall also, if it determines to cancel or suspend any certificate, send the certificate cancelled or suspended to the Board of Trade with its report.

(4) A certificate shall not be cancelled or suspended by a court under this section, unless a copy of the report or a statement of the case on which the investigation or inquiry has been ordered has been furnished, before the commencement of the investigation or inquiry, to the holder of the certificate.

Digitized by Google

Wrecks, &c.

Delivery of certificate cancelled or suspended.

9 (1) A master, mate, or engineer whose certificate is cancelled or suspended by any court shall deliver the certificate to that court on demand.

(2) If a master, mate, or engineer fail to comply with this section, he shall for each offence be liable to a fine not exceeding five hundred rupees.

Re-hearing of Investigations and Inquiries.

Re-hearing of inquiries and investigations.

10 (1) The Board of Trade may, in any case where a formal investigation as aforesaid into a shipping casualty or an inquiry into the conduct of a master, mate, or engineer has been held, order the case to be re-heard either generally or as to any part thereof, and shall do so—

(*a*) If new and important evidence, which could not be produced at the investigation or inquiry, has been discovered ; or

(*b*) If for any other reason there has in their opinion been ground for suspecting that a miscarriage of justice has occurred.

(2) The Board of Trade may order the case to be re-heard by the court by whom the case was heard in the first instance, or by the High Court, and the case shall be so re-heard accordingly.

Supplemental Provisions as to Investigations and Inquiries.

No inquiry in case of previous inquiry.

11 (1) An inquiry shall not be held into any matter which has once been the subject of an investigation or inquiry and has been reported on by a competent court or tribunal in any part of Her Majesty's dominions, or in respect of which the certificate of a master, mate, or engineer has been cancelled or suspended by a naval court.

(2) Where an investigation or inquiry has been commenced in the United Kingdom with reference to any matter, an inquiry with reference to the same matter shall not be held in the island.

Appeals.

12 The Board of Trade may order a re-hearing of any inquiry under section 3, but if an application for re-hearing either is not made or is refused, an appeal shall lie from any order or finding of the court holding the inquiry to the High Court in England, provided that an appeal shall not lie—

(*a*) From any order or finding on an inquiry into a casualty affecting a ship registered in a British possession.

(*b*) From a decision affecting the certificate of a master, mate, or engineer, if that certificate has not been granted either in the United Kingdom or in a British possession under the authority of "The Merchant Shipping Act, 1894."

(*c*) The appeal shall be conducted in accordance with such conditions and regulations as may from time to time be prescribed by rules made in relation thereto under the powers contained in part 6 of "The Merchant Shipping Act, 1894."

Rules as to investigations and inquiries.

13 (1) The Governor may, with the advice of the Executive Council, make general rules from time to time for carrying into effect the provisions relating to formal investigations, and in particular with respect to the appointment and summoning of assessors, the procedure, the parties, the persons allowed to appear, the notice to those parties or persons or to persons affected, and the re-hearing of any investigation or inquiry by the court or authority by whom the case was heard in the first instance.

(2) All rules made under the provisions of this section shall be laid before the Legislative Council if then in session, and if not then in session then so soon as possible after the commencement of the next session ; and if within forty days after their being so laid before the

Digitized by Google

Legislative Council any of such rules be objected to by the Legislative Council, the said Council may by resolution annul any such rules.

(3) Such rules as shall not be so annulled by the said Council within the usual forty days shall be proclaimed in the *Government Gazette*, and shall come into force upon the publication thereof or on such other day as may be specified in such Proclamation.

7th November, 1899.

No. 10 of 1861.

To consolidate and amend the Laws relating to Public Thoroughfares in this Colony.

(*As amended by No. 31 of 1884, No. 17 of 1885, and No. 10 of 1887.*)

(*See No. 31 of 1884, No. 18 of 1885, and No. 11 of 1889.*)

Preamble.

WHEREAS it is expedient to consolidate and amend the laws relating to public thoroughfares in this colony, and to make other provisions respecting the same: It is enacted as follows:

Ordinances Nos. 8 and 14 of 1848 repealed, and sections 16, 17, 23, and 24 of Ordinance No. 16 of 1844.

1 The Ordinance No. 8 of 1848, entitled "To make provision for the formation and improvement of the means of communication in this Island;" the Ordinance No. 14 of 1848, entitled "To alter in certain respects the Ordinance No. 8 of the year 1848, and to extend its operation to the maintenance of Public Tanks and other means of Irrigation;" and the 16th, 17th, 23rd, and 24th clauses of the Ordinance No. 16 of 1844, entitled "An Ordinance for the preservation and improvement of Streets, Roads, Thoroughfares, and Public Places within Towns, and of the Public Roads, Navigable Rivers, Lakes, and Canals of this Island," are repealed, save and except rights which shall have accrued, liabilities which shall have been incurred, acts which shall have been done, and all proceedings or matters which shall have taken place before this Ordinance shall come into force.

Short title of Ordinance.

2 This Ordinance may be cited for all purposes as "The Road Ordinance, 1861."

Commencement of Ordinance.

3 This Ordinance shall come into operation on the First day of January, One thousand Eight hundred and Sixty-two.

Interpretation of certain terms in this Ordinance.

4 In the construction and for the purposes of this Ordinance (if not inconsistent with the context or subject-matter) the following terms shall have the respective meanings hereinafter assigned to them; (that is to say,)

"Thoroughfare" shall mean any public road, canal, or river.

"Road" shall include all public carriage ways, cart ways, and pathways, as well as all bridges, drains, embankments, causeways, and ditches belonging or appertaining to a road, and such waste land adjoining any road as may have been reserved for its protection or benefit, throughout the island; also all public places in any town.

Digitized by Google

Public Thoroughfares.

"Canal" shall mean any public canal, and shall include the full extent of waterway from bank to bank, together with the sides, towing-paths, embankments, drains, and ditches thereto belonging.

"River" shall include all public navigable streams, lakes, estuaries, creeks, and inlets of the sea, and all towing-paths and embankments thereto belonging.

"Centre of the road" shall be deemed to be the centre of the part thereof commonly used as a thoroughfare.

"Town" shall mean any place within the limits of which a police force is or shall hereafter be established by the Governor, and any place included in any Proclamation issued or to be issued by the Governor under the provisions of the Ordinance No. 10 of 1848.*

"Householder" shall mean the owner, or part owner, or lessee, or principal occupant of the house in which such person resides.

"Inhabitant" shall mean a person who, being in this colony, has resided therein for three months or upwards.

"Resthouse" shall include any amblam, maddum, or other public building for the shelter of travellers.

"Ox" shall include buffalo and all cattle.

"Horse" shall include all animals except oxen commonly used in drawing any kind of carriage.

Language of notices, and how served.

5 All notices required to be given by this Ordinance shall be in the English, Sinhalese, or Tamil language, in the discretion of the provincial committee; and every notice addressed to any person may be served either personally upon such party, or by leaving it with some member of his household, or by affixing it to some conspicuous part of his residence.

Forms in schedule may be used.

6 The several forms in the schedule to this Ordinance, or forms to the like effect, shall be deemed good and sufficient.

Powers of Commissioner of Roads to be exercised by his assistants.

7 The powers and duties vested by this Ordinance in and imposed upon the Commissioner of Roads shall and may be exercised and discharged by any assistant commissioner of roads within the limits of his authority, under the control and direction of the Commissioner of Roads.

General Provisions.

Governor to declare principal thoroughfares.

8 It shall be lawful for the Governor, with the advice of the Executive Council, by Proclamation to declare that any road, canal, or river shall be deemed to be a principal thoroughfare for the purposes of this Ordinance, and such road, canal, or river shall from the time specified in such Proclamation be deemed to be a principal thoroughfare accordingly:

Proviso.

Provided that all roads, rivers, lakes, and canals which have been declared principal roads, rivers, lakes, or canals under the Ordinance No. 8 of 1848, shall be deemed principal thoroughfares for the purposes of this Ordinance.

* Repealed by No. 16 of 1865.

Digitized by Google

9 It shall be lawful for the Governor, with the advice of the Executive Council, and on the application of the provincial committee, to order that any existing road *or canal* be stopped up, diverted, or turned, and to substitute some shorter or more commodious course for any road *or canal* so diverted or turned, as the public advantage may require; and it shall also be lawful for the said Governor and Council to order any new road to be opened, or any road to be widened and enlarged, in such manner as they shall think fit; and if in the execution of any such order it shall become necessary to take possession for the public use of the land of any person, it shall be lawful for the chairman of the provincial committee, and he is hereby empowered, subject to the approval of the Governor, to make an agreement on behalf of the Government with the owner for the recompense to be made for such land, and for any building, tree, or fence thereon, either by allowing him to possess the ground, or part of the ground, of the former road, or by the grant of other Crown land in exchange, or by payment in money; and the land of any person taken possession of by the chairman of the said committee in pursuance of such agreement shall vest in the Government, without any formal transfer thereof, and the certificate of such chairman that any person has been allowed by the Governor to possess any part of the ground of the former road or other Crown land, together with a survey thereof, shall be a sufficient title of the right of such person to the same; and if the said chairman cannot agree with such owner as to the recompense to be made, or if the owner cannot be found, or if it be not thought advisable to enter into any such agreement, then proceedings may be taken for obtaining possession of such land, and for compensating the owner, in the manner prescribed by any Ordinance in force at the time providing means for taking private lands for public uses.

Governor may order road to be stopped up or diverted, and substitute shorter or more commodious course, and order road to be widened and enlarged.

[§ *1, 17 of 1885*]

Mode of ascertaining compensation to be given to owner of land taken for any such purpose.

10 The several districts and divisions into which the colony has been divided under the authority of the Ordinance No. 8 of 1848 shall continue to be the districts and divisions for the purposes of this Ordinance, so long as any such district or division shall not have been altered in manner hereinafter provided.

The existing districts and divisions to continue until altered.

11 It shall be lawful for the Governor, with the advice of the Executive Council, by Proclamation to alter and vary any district or division into which this colony has already been divided under the authority of the Ordinance No. 8 of 1848, or into which it may at any time hereafter be divided for the purposes of this Ordinance: Provided that any such alteration of a district shall take effect only from the first day of January thence next ensuing.

Governor may alter the districts and divisions.

Proviso.

12 It shall be lawful for any provincial or district committee for the time being to make and enter into, perform and execute, and compel the performance and execution of all such contracts and agreements, matters, and things,

Committees may enter into contracts, and may sue and be sued.

Digitized by Google

Public Thoroughfares.

and to commence and maintain all such suits as they shall deem necessary; and all such contracts and agreements shall and may be entered into and enforced, and all such suits be brought by them in the name of the provincial or district committee of the province or district respectively for which any such committee is assigned to act, without specifying the names of the members of any such committee or the name of any member thereof, and no action shall abate by reason of the death, resignation, retirement, or removal of any member of any such committee; and all suits the cause of which shall arise or accrue to any person whatsoever from or by reason of any contract or agreement or any other matter or thing, made or entered into, done, or performed by any provincial or district committee in the execution of the powers vested in them by this Ordinance, shall be brought by such person against such provincial or district committee under the name and title aforesaid; and the service of all processes in any such suit against any such committee shall be made upon the chairman thereof.

Provincial Committees.

Appointment of provincial committee.

13 For the purposes of this Ordinance there shall be in each province a committee to be termed the provincial committee, to be constituted and appointed in manner following:—The government agent of the province and the Commissioner of Roads, or in his absence any assistant authorized by him, shall be the official members thereof; and it shall be lawful for the Governor to appoint not less than three nor more than five persons, of whom at least three shall be persons not holding office under the Government, to be the other members thereof; and the persons so appointed shall continue in office one year and no longer, unless again appointed in like manner; and the government agent shall be the chairman of such committee; and the assistant to the government agent at the principal station in the province, or the person acting in that capacity, shall be the secretary to the said committee, and such secretary shall be present at and make due record of all meetings of the committee and of the resolutions and proceedings thereof.

Chairman thereof. Secretary.

Majority to decide.

14 All acts whatsoever authorized or required by virtue of this Ordinance to be done by any provincial committee may and shall be done and decided by the majority of the members of the said committee present at any meeting thereof duly convened in manner hereinafter provided, such members not being less than three of the whole number of the provincial committee, unless where by any of the provisions of this Ordinance one member of the said committee is expressly empowered to do and decide any act, matter, or thing whatsoever: Provided that when the votes of the members present in regard to any question shall be equally divided, the chairman, or in his absence the Commissioner of Roads or his assistant, or in the absence of both the official members the member chosen by the meeting to preside, shall, besides his vote as a member, have a casting vote; and

Quorum.

Casting vote of chairman.

Digitized by Google

provided further, that if the government agent shall be absent from any meeting, the secretary shall be entitled to vote upon any question.

15 Meetings of the provincial committee shall be held for the despatch of business at the office of the government agent for the province, upon such day or days in every month as shall be fixed by any general rule made by such committee as hereinafter provided: Provided that if any two members shall call upon the chairman, by writing under their hands, to convene a special meeting of such committee, it shall be the duty of the chairman to convene such meeting within seven days from the receipt of such requisition, and two days' notice of the day appointed by him for the same shall be given by the secretary to each member thereof. **Meetings of provincial committees.** **Proviso.**

16 It shall be lawful for the provincial committee to make such rules and to prescribe such forms of accounts as to them may appear expedient for regulating the due conduct and management of the duties imposed on them and on those acting under their authority, and on the district committees and division officers in their province; provided such rules be not repugnant to or inconsistent with any of the provisions of this Ordinance, and that copies thereof be with all convenient speed transmitted to the Governor for the approval, amendment, or disallowance thereof by the Governor, with the advice of the Executive Council; and the said rules so approved or amended shall thereupon become as legal, valid, and effectual as if the same had been inserted herein; and it shall also be lawful for the provincial committee from time to time to give general directions for the management of their business to the district committees and to the division officers within their province; provided such directions be not repugnant to or inconsistent with the provisions of this Ordinance, or with any rules made under the authority of this section. **Provincial committee to make rules.**

17 Every provincial committee shall, on or before the first day of July in every year, transmit to the Governor a numerical abstract of the inhabitants resident within the province liable to the performance of labour under this Ordinance, distinguishing the number of such inhabitants belonging to each district and division within the province. **Provincial committee to furnish list of inhabitants annually to Government.**

18 Repealed by No. 31 of 1884.

19 The charge of all public resthouses and of any premises belonging thereto shall be vested in the provincial committee of the province within which the same shall be situated; and it shall be lawful for the said committee, with the approval of the Governor, to make such rules as to them may appear expedient in respect to the letting or occupation of the same, and all such rules shall be binding in law upon all parties in any manner using or occupying any such resthouse, or any of the premises belonging thereto; and all sums which shall by virtue of any such rules or otherwise be received from any person hiring, using, **Provincial committee to have charge of resthouses.**

Digitized by Google

or occupying any such resthouse or premises shall be paid to the chairman of the said provincial committee, who shall defray therefrom the expenses necessary for the management of the several resthouses and premises within the province.

Provincial committee to furnish accounts to Governor.

20 Every provincial committee shall, on or before the first day of April in every year, transmit to the Governor accounts, audited by two of its members, showing the amount of labour and money performed and paid on account of each district and division in the province during the preceding year, and of the several works for which the same shall have been applied; and there shall be appended to such accounts copies of the certificates referred to in the 37th section; and such accounts, with the copies aforesaid, shall be laid before the Legislative Council at its next session.

Persons appointed bound to serve.

21 Every person appointed a member of a provincial committee shall be bound to act as such for the space of one year from the time of such appointment; and any person so appointed who shall refuse to act as such for the time aforesaid, or who shall neglect to attend any meeting of the said committee without lawful excuse, or who shall on any occasion during such time wilfully neglect or refuse to perform any of the duties imposed upon him by this Ordinance, shall forfeit for such first-mentioned act of refusal the sum of ten pounds, and for any other act of neglect or refusal the sum of two pounds: Provided that it shall be lawful for the Governor, upon good and sufficient reasons shown to him, to permit any person appointed a member of a provincial committee to resign such office before the expiration of one year from the time of such appointment; and provided further, that no person shall, unless with his own consent, be appointed a member of any such committee within five years from the time of his having ceased to act in such office; but nothing in this Ordinance contained shall prevent any person appointed a member of any such committee continuing with his own consent, and upon a fresh appointment, to act as such for a longer period than one year.

Proviso.

Vacancy in provincial committee.

22 In case of the death, incapacity, resignation, or departure from the island of any member of a provincial committee the chairman shall report the same forthwith to the Governor, and it shall be lawful for the Governor to appoint some qualified person to supply the vacancy so created for the remainder of the period for which any such member was bound to act; and any person appointed to supply any such vacancy shall be and become vested with all the powers and rights, and liable to the performance of all the duties, and subject to the penalties, conferred or imposed by this Ordinance on members of the provincial committee; and until any such vacancy shall be supplied the remaining members or member of any such committee shall continue to do and perform all and every the acts,

Digitized by Google

matters, and things necessary for carrying into effect the purposes of this Ordinance, anything contained in section 14, relative to the number of members required to form a quorum at any meeting of a provincial committee, to the contrary notwithstanding.

District Committees.

23 For the purposes of this Ordinance there shall be in each district into which any province has been or shall hereafter be divided a committee, to be termed a district committee, and consisting of the following members; that is to say, the government agent of the province, or in his absence the assistant government agent of the district, or if there be none such, then such other person as the provincial committee shall appoint; the assistant commissioner of roads of the district, or such other officer as the Commissioner of Roads shall appoint; and three other members to be elected or appointed in the manner hereinafter mentioned: Provided that it shall be lawful for any member of a provincial committee to be also a member of any district committee; and the said government agent, or in his absence the said assistant agent, or such other person as may be appointed by the provincial committee as aforesaid, shall be the chairman of such district committee; and the said assistant agent, or in his absence, or if there be no such assistant agent, then any member nominated by the chairman, shall be the secretary thereof, and shall make due record of all meetings of the said committee and of the resolutions and proceedings thereof: Provided that in the event of the absence of such secretary from any meeting the duties of the secretary may and shall be performed by any one of the members present who shall be thereunto directed by the member chosen to preside at such meeting.

Constitution of district committee.

Chairman and secretary.

Provided also that it shall be lawful for the Governor, acting with the advice of the Executive Council, to appoint any fit and proper person as an additional member of the district committee of any district in which such appointment is applied for by the provincial road committee, or is otherwise made to appear to him to be expedient.

Governor, with the advice of the Executive Council, to appoint an additional member to a district committee.

[§ *1, 10 of 1887*]

24 All acts whatsoever authorized or required by virtue of this Ordinance to be done by any district committee may and shall be done and decided by the majority of the members of the said committee present at any meeting thereof, such members not being less than three of the whole number of the district committee, unless where by any of the provisions of this Ordinance one member of the said committee is expressly empowered to do and decide any act, matter, or thing whatsoever: Provided that when the votes of the members present shall be equally divided the chairman shall, besides his vote as a member, have a casting vote.

Majority to decide.

Quorum.

Casting vote of chairman.

25 No person shall be eligible as a member of a district committee unless he shall be an inhabitant of the district for which the said committee is assigned to act, and shall be

Qualification of member.

Digitized by Google

of the age of twenty-one years or upwards : Provided that it shall be lawful for the Governor from time to time to require by Proclamation to be published in the *Government Gazette* that any members to be elected for any district therein named should be able to read and write the English language, and no person shall after such Proclamation be admitted as a candidate for election who does not possess such qualification.

Candidates must give notice of intention to offer themselves as such.

26 Every person intending to offer himself as a candidate shall give at least ten days' notice in writing to the chairman of the provincial committee of such his intention, and it shall be the duty of the said chairman to publish the names of the candidates at the different places in which the election is held, as is hereinafter provided, before the election takes place.

Elections when to be held.

27 The provincial committee of every province shall, once in three years, cause a general election to be held in each district within the province for the election of the three members for each of the district committees within such province ; that is to say, the first of such elections shall be held on an early day in the month of January, One thousand Eight hundred and Sixty-two, and thereafter on such other day before the first day of January of every succeeding third year as the said provincial committee shall appoint. The committee may, if need be, appoint several places for holding the election, so as to secure that the elections should all be held in one and the same day: Provided that such committee shall in every case cause notices to be published seven days at least before the day of such election, fixing the time and places of such election. A copy of such notice shall also be inserted in the *Government Gazette*, and affixed on the walls of the cutcherry and courts of every such district respectively.

Election by whom to be held.

Classification of electors.

28 Every election shall be held at the time and places fixed by the provincial committee as aforesaid, and in the presence of the chairman thereof or of such other person as the committee shall depute for that purpose ; that is to say, there shall be a separate election in respect of each class of the community, namely, the Europeans, the Burghers, and the natives : Provided that for the purpose of such election every person shall be deemed a Burgher who shall be commonly known as such, and every person shall be deemed a native who shall not be either a European or a Burgher.

Order of holding elections.

29 At the time and places so fixed as aforesaid the person holding the election shall at once proceed to the election of the member for the European community, and thereafter of the member for the Burgher community, and lastly of the member for the native community.

Mode of holding elections.

30 At every such election it shall be lawful for every male inhabitant between the ages of 18 and 55 years residing within the district, and being a member of that class of the community for which the member is to be elected, and liable

Digitized by Google

to perform labour under the Ordinance, to nominate for election as a member of the district committee of the said district any person who shall have offered himself as a candidate for the said office; and every such inhabitant shall be entitled to attend personally at the time and place aforesaid, before the person holding the election, and declare to him the name of the candidate for whom he votes: Provided that no person otherwise qualified shall be entitled to vote unless he shall produce a certificate of the due performance by him of labour for the current year, or a receipt of the payment of commutation money in lieu of such labour. If the election should precede the calling out of labour in the district to which the voter belongs, it shall then be competent for him to produce the certificate of labour or the commutation receipt for the preceding year: Provided further that it shall not be competent for any inhabitant to nominate or vote for any candidate who may have already been elected by either of the other two classes for the same period.

Votes to be recorded, and the result to be declared.

31 The persons holding the election shall record or cause to be recorded in a book to be kept for that purpose the proceedings had at such elections and the number of votes for the several candidates, and at the close of each election shall publicly declare the names of the candidates for whom the greatest number of votes shall have been recorded, and shall communicate the same forthwith to the chairman of the provincial committee; and such chairman, after having ascertained the result of the elections at all the places appointed for holding the same, shall publish the names of the candidates elected by each class for whom the greatest number of votes shall have been recorded in the aggregate, and who shall thereupon be deemed to have been duly elected: Provided that no person shall be deemed duly elected who shall have less than five votes in his favour: Provided also that if the votes in favour of two or more of the candidates shall be equal, the provincial committee may at their discretion select any one of them and declare him to be, and he shall thereupon be deemed to be, the duly elected member.

Proviso.

Objections to voters how disposed of.

32 If any question shall be raised as to the right of any person to vote at any election, the person holding the election shall then and there make such inquiry as he may deem requisite, and shall declare whether the objection made be good or not, and the decision so made shall, for the purposes of the said election, be final. In all other questions relating to elections, or the legality thereof, the decision of the provincial committee shall be final.

Provision in case no candidate appears or is elected.

33 If upon the day fixed for holding any election no person shall offer himself for election, or no person shall be duly elected, it shall be lawful for the provincial committee either again to appoint a time and places for holding such election, giving such notice as they may deem sufficient, or, if they shall think fit so to do, to appoint some person to be

Digitized by Google

nominated by themselves as the member to represent that class of the community in respect of which no person shall have offered himself or been duly elected.

Member bound to serve.

34 Every person so elected or appointed as a member of a district committee shall be bound to act in such office for the period of at least one year.

Vacancy how supplied.

35 In case of the death, incapacity, resignation, or departure from the island of any member so elected or appointed as aforesaid, the provincial committee shall cause a fresh election to be held, after such notices and in like manner as is hereinbefore provided in respect of general elections, and subject also to the provision in the 33rd section contained; and every person so elected or appointed in place of another shall, except as is hereinbefore provided, be bound to act in the said office for the remainder of the period for which the original member was elected or appointed.

Penalty for refusal to act as member.

36 Any person appointed as a member of a district committee who shall refuse to act as such shall be liable to a fine not exceeding ten pounds; and any member, whether elected or appointed, who shall, during the time that he is a member, wilfully neglect or refuse to perform any of the duties imposed upon him by this Ordinance, shall forfeit for any such act of neglect or refusal the sum of two pounds: Provided that it shall be lawful for the provincial committee, upon good and sufficient reasons being shown in that behalf, to permit any such member to resign his office before the expiration of the period for which he shall be bound to act therein.

Appropriation of one-third to minor works.

37 It shall be lawful for the district committee, with the approval of the provincial committee, to apply the remaining amount of labour not appropriated for works referred to in section 18,* or any money paid in commutation thereof, less the proportion of the necessary expenditure to be incurred in carrying out the provisions of this Ordinance for the repair, improvement, maintenance, and formation of any minor road or path, river, lake, or canal, or any proposed minor road, path, or canal within the district: Provided that it shall be the duty of every district committee, before commencing their works in any year, to transmit to the provincial committee estimates of the amount which the district committee recommend should be expended during that year upon any minor road or path, river, lake, or canal, or any proposed minor road or canal within the district, copies of which estimates shall be forwarded by the provincial committee to the Governor; and provided further that no work performed by the district committee shall be admitted into account and pass audit unless the due and satisfactory performance thereof be certified to in writing by two members of the provincial or district committee, and an entry thereof be made in the proceedings.

Proviso.

Further proviso.

* See sections 30 to 33 of No. 31 of 1884.

Digitized by Google

Division Officers.

38 The district committee of each district shall be empowered from time to time to appoint as many division officers for such district as shall be necessary, and to award to them such salary or remuneration as they deem fit, and also from time to time to remove any existing or future division officer from his office, and appoint another to succeed him: Provided that the several division officers elected or appointed under the authority of the Ordinance No. 8 of 1848 shall, unless removed by the said committee, continue to be the division officers for the respective divisions for which they were originally elected or appointed, receiving therefor such salary or remuneration as may have been agreed upon, and they shall perform the duties and exercise the powers, and be liable to the penalties, conferred or imposed by this Ordinance on division officers; and any bond or other security given by them for the due and faithful execution of their office shall remain in force and be good and effectual as security for the due and faithful execution of their duties as division officers under this Ordinance.

Division officers how appointed.

Security given by them to stand good.

39 If any division officer shall die or become incapable or disqualified, or resign or be removed from his office, the district committee shall with the least possible delay appoint such person to the vacancy as they may deem fit.

Appointment of successors to present division officers.

40 No person shall be eligible to be appointed a division officer unless he shall be an inhabitant of the division for which he shall be appointed, or shall reside within such distance from it as the district committee shall determine.

Qualification of division officer.

41 Every person appointed a division officer shall, within ten days from the time of such appointment, give security to Her Majesty, her heirs and successors, for the due and faithful execution of his office, in such amount as shall be determined by the district committee; and such security shall be given by way of mortgage of immovable property within this island, or by deposit of money, in such manner as the said district committee shall appoint, and such mortgage bond shall be free of stamp duty.

Division officer to give security.

42 Every householder shall, whenever thereunto required by the division officer of the division in which such householder resides, or by any person acting on behalf of such division officer, fill up a list (A) containing the number of inmates, and the name, age, and occupation of every male person (including such householder himself, if a male) resident in his house, so far as the same shall be known to him; and the division officer, or person acting on his behalf, shall ask the persons mentioned in such list who are liable to perform labour under this Ordinance, and who had not theretofore commuted or elected to commute, whether or not they elect to commute the same, and the purport of their reply shall be entered in the said list; and if any householder is unable to write he shall furnish the required information to the division officer, or person acting on his behalf, who shall enter the same in such list; and any householder

Householders to fill up lists of males resident in their houses, on requisition by division officer.

Digitized by Google

refusing or neglecting to comply with any such requisition, or wilfully giving false information to the division officer, or to the person acting on his behalf, as to any matter or thing required to be inserted in such list, shall be liable to a fine not exceeding five pounds.

Absent persons usually residing with such householder to be named to the division officer.

43 If any male person who usually resides in the house of such householder shall be absent from home in some other division at the time any such householder is called upon to fill up any such list, such householder shall inform the division officer, or person acting in his behalf, of the name, age, and occupation of such absent person, and also of the place to which he has gone, and of the time when he is expected to return, so far as the same shall be known to such householder; and the said division officer, or person acting on his behalf, shall enter the name and other particulars respecting any such absent person in such list, and shall inform the district committee of the name and supposed residence for the time being of such absent person.

Division officer to give information thereof to the district committee.

Division officer to preserve lists; to deliver them to district committee if required; and to permit their inspection.

44 Every division officer shall carefully preserve the lists mentioned in section 42 for such period as the district committee may direct; and he shall be bound to deliver the same at any time to the district committee if called upon so to do, and if the same are in his possession; and he shall at all reasonable times permit any inhabitant of his division liable to perform labour to inspect the same.

Division officer to make and preserve lists and returns.

45 Every division officer shall make and preserve such lists and returns, and shall conform to such instructions, as the provincial committee shall from time to time by writing require and prescribe.

Punishment of division officer for neglect of duty, misconduct, &c.

46 Any division officer who shall commit any of the following offences shall be liable to the punishment hereinafter specified in each case:

(1) Repealed by No. 3 of 1883, itself repealed by No. 15 of 1898.

Default of payment of money due.

(2) If he shall make default in the paying or accounting for any money received by him, within the time and according to the directions appointed by the district committee, he shall be liable for every such offence to a fine not exceeding treble the amount of the money so due:

Fraudulent acts.

(3) If he shall by any wilful act, either of commission or omission, commit or attempt to commit any fraud in the execution of his office, or shall wilfully or fraudulently alter, deface, destroy, or make away with any book, list, account, or document in his charge or custody, or which he was bound to preserve, he shall be liable for every such offence to such punishment as the court before which he shall be convicted may in its discretion award.

On removal or resignation of division officer, district

47 In the case of the death, resignation, or removal of any division officer, the district committee shall be entitled to receive and take possession of all books, lists,

Digitized by Google

accounts, and other things relating to his office which were in his possession; and if any division officer so removed from or resigning his office, or the representative of any deceased division officer, shall neglect or refuse to deliver within a time fixed by the said district committee the said books, lists, accounts, and other things, he shall be liable to a fine not exceeding five pounds for every day during which such neglect or refusal shall continue. committee entitled to his books, &c.

Headmen and others to assist division officers.

48 All headmen and all police and peace officers shall, when necessary, be aiding and assisting every division officer within their respective jurisdictions in the discharge of the duties imposed upon him; and every such headman or police or peace officer who shall wilfully neglect or refuse so to aid or assist shall be liable to a fine not exceeding five pounds.

Performance of Labour.

Male inhabitants between 18 and 55 years liable to perform labour on the roads.

49 Every male inhabitant between the ages of eighteen and fifty-five years shall be liable to perform six consecutive days' labour in each year upon the thoroughfares in this colony, or on works necessary for the formation, repair, or improvement thereof, or in the collection and preparation of materials required for any such purpose, or on any work sanctioned by the Legislative Council under the authority of this Ordinance.

Exemptions.

50 The following persons are exempted from the liability to labour imposed by the preceding section :

(1) The Governor:
(2) All officers, non-commissioned officers, and soldiers belonging to the staff, or to any regiment or corps of Her Majesty's army serving in this Colony :
(3) Buddhist priests:
(4) Pioneers in the employ of Government:
(5) Indian coolies in search of or employed in agricultural labour in this island.

51-65 Repealed by No. 31 of 1884.

Execution of Works.

Management of works on principal thoroughfares to be vested in provincial committee.

66 The direction and control of any work directed by the Governor and the Legislative Council to be undertaken under this Ordinance upon any principal thoroughfare shall be vested in the provincial committee, the execution, however, of such work being left to the Commissioner of Roads for the time being, or such other officer as the Governor may direct; and the provincial committee shall as hereinafter provided furnish the said Commissioner of Roads or other officer with the amount of labour voted by the said Council for every such work, or shall from time to time pay for such labour out of the sums received by them in commutation of labour due under this Ordinance.

Provincial committee to fix commencement of work.

67 The provincial committee shall as soon as may be after any work shall have been directed by the Governor and the Legislative Council to be undertaken upon any principal thoroughfare, or proposed principal thoroughfare, inform the

Digitized by Google

Provincial committee to apportion labour; and inform district committee of the apportionment.

Commissioner of Roads or other officer of the time at which they propose to commence such work; and it shall be lawful for such provincial committee, and they are hereby required, to determine, as to them shall appear expedient, the amount of the labour due from each division within their province to be applied to each such work; and the provincial committee shall inform each district committee of the amount of labour to be furnished by each division in conformity with such appropriation; and such district committee shall forthwith cause notices thereof to be affixed to such conspicuous places within the respective divisions as to them may appear expedient.

District committee to have control of one-third of labour.

68 The district committee shall, subject to the approval of the provincial committee, have the application, direction, and control, as well as the superintendence, of the amount of labour not appropriated for works undertaken upon principal thoroughfares.

Officer in charge of work to grant certificate of performance of labour. Penalty for improper refusal of certificate. Punishment for fraudulently lending or using such certificate.

69 The officer in charge of any work to which this Ordinance is applicable shall give to the persons who have duly attended to perform, and have properly performed, the labour required of them by this Ordinance for the year in which they have been so employed, a certificate (C) of the due performance of such labour; and any officer who shall wilfully neglect or delay to grant such certificate to any person justly entitled to receive the same shall be liable to a fine not exceeding five pounds; and any person who shall deliver any such certificate to any other person, in order that such last-mentioned person may make use of the same in proof of his having performed the labour due by him, or for any other fraudulent purpose, both the person lending such certificate to another for any such purpose, as well as the person deceitfully making use of the same as a certificate granted to him, shall be guilty of an offence, and be liable to such punishment as the court before which he is tried shall impose.

Officer in charge of work to inform the division officer what persons have performed labour.

70 The officer in charge of any such work as aforesaid shall inform the proper division officer, weekly, what persons have duly attended to perform and have properly performed upon such work the labour due by them for the current year, and what persons have refused or neglected to do so.

Proper officers empowered to enter upon lands for repair, &c., of thoroughfares;

71 It shall be lawful for such officer, and for the servants, workmen, and labourers employed by or under him, at all times, and with all necessary and proper carriages and animals and other means, to enter upon any land adjacent or near to any existing or intended thoroughfare, and there severally to do and perform all acts, matters, and things necessary for the purpose of tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving, or fencing any such thoroughfare, or for building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon, or in any way connected therewith, or for performing any act, matter, or thing under the provisions of this Ordinance.

Digitized by Google

72 It shall be lawful for any such officer, with the servants, workmen, and labourers employed by or under him, at all reasonable times and with all necessary and proper carriages, animals, and other means, to search for, dig, cut, take, and carry away any water, timber, brushwood, stone, gravel, clay, or any other materials whatsoever, for the purpose of tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving, or fencing, or in any way assisting in the tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving, or fencing any existing or intended thoroughfare; or of building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon, or in any way connected therewith; or for the construction or repair of any lines or any buildings whatsoever required on or near any such thoroughfare for the use of any officer as aforesaid, or any workmen, animals, carriages, persons, or things employed in his service, in and from any land adjacent or near to any such thoroughfare, and to carry away the same through the ground of any person, without being deemed a trespasser: Provided that no such materials shall be dug for, cut, or taken away, upon or from any yard, avenue to a house, or lawn, or any inclosed garden, plantation, field, or wood, without the consent of the owner thereof, unless sufficient materials cannot conveniently be obtained from the neighbouring waste lands or common, or abandoned grounds, in which case the said officer may take any of such materials where he can conveniently procure the same: Provided also that reasonable compensation for all materials so taken, and for the damage done by the getting and carrying away the same, shall be made to the owner thereof; and provided further that such officer shall rail or fence off any quarries or pits from which any such materials shall be taken, so that the same shall not be dangerous to any person or animal.

and to take materials.

Proviso.

73 It shall be lawful for any such officer when tracing, measuring, making, working, opening, altering, turning, repairing, clearing, or improving any existing or intended thoroughfare, or building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon or in any way connected therewith, to make and erect temporary buildings on any land adjacent or near thereto for the accommodation of such officer, or for the accommodation of the servants, workmen, labourers, animals, carriages, or things employed by him during the progress of the work; and to keep duly tethered and stabled all such oxen, horses, and animals as may be employed by him upon any lands near or adjacent thereto, and to continue so to keep the said oxen, horses, and animals on such lands and for such time as may be necessary: Provided that no such building shall be erected, nor any such oxen, horses, or other animals kept on any land which shall be under cultivation, nor where there are neighbouring waste lands or common or abandoned grounds available for the purpose; and provided further that reasonable compensation for any damage done to the land shall in all cases be made to the owner thereof.

And erect buildings;

and keep cattle, &c.;

Digitized by Google

and throw rubbish upon adjacent lands;

74 In the tracing, measuring, making, working, opening, altering, turning, repairing, clearing, or improving any existing or intended thoroughfare, or building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon or in any way connected therewith, it shall and may be lawful for any such officer to throw upon any lands adjacent or near thereto such earth, rubbish, or materials as it shall or may be necessary to remove from the place of any such work.

and make temporary road;

75 It shall be lawful for any such officer to make a road through the grounds adjacent or near to any existing or intended thoroughfare during the execution of any work thereupon or in any way connected therewith; provided such road shall not run over any ground whereon any building stands, nor over an inclosed garden or yard.

and cut trees;

76 It shall be lawful for any such officer to cut and remove, and place upon any ground adjacent or near thereto, all trees, bushes, or shrubs, and all leaves or branches or roots of trees that shall grow in or overhang any thoroughfare or cause any obstruction therein, and for that purpose to enter upon any land or premises with such persons, animals, and instruments as may be necessary, and to proceed to do therein all such things as may be necessary for the cutting, lopping, or removing of such trees, bushes, shrubs, leaves, branches, or roots.

and put up fences;

77 It shall be lawful for any such officer to put up or make fences, hedges, ditches, drains, or banks by the side of any thoroughfare, whenever to him it shall appear necessary, and the owners or occupiers of land adjoining such fences, hedges, ditches, drains, or banks shall, and they are hereby required to, keep the same in good and substantial repair and order.

and to make and keep open ditches, &c., and to lay trunks, &c.;

78 Every such officer shall have power to make, scour, cleanse, and keep open all ditches, gutters, drains, or water-courses, and also to make and lay such trunks, tunnels, plats, or bridges, as he shall deem necessary for the protection, preservation, improvement, repair, or construction of any road or canal in and through any lands or grounds adjoining or lying near to such road or canal or intended road or canal.

and to lay stones, &c., on road.

79 Every such officer shall have power to lay any heap of stone or gravel, or any log of wood, or any other matter or thing whatsoever, upon any road, and to allow the same to remain there during the time such road is under repair, and for such time before the repairs are commenced, and after the repairs are completed, as may be necessary for facilitating the making of such repairs, or for preventing damage to such recently repaired road, but he shall take due and reasonable precaution for preventing danger or injury to persons passing along such road.

Compensation for injury to property by authorized officers.

80 Every person who shall sustain any loss or damage by reason of the exercise of any of the powers and authorities conferred by this Ordinance upon officers in charge of works to which it is applicable shall be entitled to receive

Digitized by Google

compensation for the same; provided he shall make application in that behalf to the chairman of the proper provincial or district committee at any time before the expiration of three months after the act, matter, or thing in respect of which such damage shall be alleged to have been done, and if he shall fail to make such application within the aforesaid period his claim to compensation for the alleged injury may be disallowed, and he shall be barred from recovering the same; and the amount of compensation, if the same cannot be agreed to, may be decided by arbitration, the provincial committee naming one arbitrator and the person claiming compensation another. If the two arbitrators cannot agree they shall appoint an umpire, and the award of the arbitrators or umpire, to be given in terms of the reference to be agreed to by the parties, shall be final.

Reference to arbitration.

81 Every chairman of a provincial or district committee, within the limits of the province or district for which such committee is assigned to act, the Commissioner of Roads, and every person authorized in writing by any such chairman or Commissioner of Roads, shall and may by themselves, their servants, workmen, and labourers, exercise the several powers and authorities conferred by this Ordinance on officers in charge of works to which this Ordinance is applicable.

Powers conferred on officers in charge of public works by whom to be exercised.

82 Every person acting under the authority of this Ordinance who shall, under pretence of performing any act under the authority of this Ordinance, use any unnecessary violence or give any uncalled-for and vexatious annoyance, shall be guilty of an offence, and be liable on conviction thereof to any fine not exceeding five pounds.

Vexatious conduct of officer.

83 Repealed by No. 3 of 1883, itself repealed by No. 15 of 1898.

Encroachments.

84 And whereas the line of many thoroughfares has been altered to suit the purposes of private parties, and many obstructions and encroachments have been made in and upon the said thoroughfares, to the great inconvenience and injury of the public: It is enacted that whenever it shall appear to the provincial or district committee that any building, inclosure, or obstruction shall have been raised or made in any thoroughfare, or on any waste or other ground immediately adjoining thereto and belonging to Her Majesty, it shall be lawful for any such committee to demand in writing of the person claiming to be the owner of the premises on which such building, inclosure, or obstruction shall have been raised or made, the production of every deed, document, and instrument upon which such person founds such claim; and if the occupier of such premises, not being himself the alleged owner, shall refuse to give full information respecting the name and residence of such alleged owner, upon being requested so to do by any such committee, or if such alleged owner shall refuse to produce within ten days after being requested so to do every deed, document, and instrument upon which he founds his claim to the said

Committee may in certain cases demand production of title deeds;

Digitized by Google

premises, and which shall be in his possession, or, if any such deed, document, or instrument shall not be in his possession, shall refuse fully to inform any such committee, upon application, in whose possession they are; or if any person having in his possession any such deed, document, or instrument shall refuse to produce the same within ten days after having been requested so to do in writing by any such committee, every such occupier, alleged owner, and person so refusing shall be liable to a fine not exceeding five pounds; and it shall be lawful for any such committee, or any person thereto authorized by the chairman thereof, to enter upon any premises upon which any such building, inclosure, or encroachment shall have been raised or made as aforesaid, and upon any other premises whatsoever which it may be necessary to enter for the purposes of the survey hereinafter mentioned, and to make such survey of all such premises as may be necessary to enable any such committee to ascertain whether such building or inclosure is an encroachment upon any thoroughfare, or upon any land adjoining thereto and belonging to Her Majesty.

and make survey of premises.

Demand of production of deed to include power of examination.

85 The deeds, documents, and instruments in the preceding clause mentioned shall be produced on the premises to which the same may relate, or at such other place as the provincial or district committee may require, and the power of demanding the production thereof, in the preceding clause given, shall be deemed and taken to include the power of making such examination of such deeds, documents, and instruments as shall be necessary; and every person refusing or failing to permit such examination of any such deed, document, or instrument to any party authorized under this Ordinance to demand production thereof, and making such demand, shall be liable to any fine not exceeding five pounds.

Notice of intended building along a thoroughfare.

86 It shall not be lawful for any person to commence any building, wall, or fence along any thoroughfare, or to place any temporary fence or inclosure on any such thoroughfare, for commencing or repairing any such building or wall, without giving seven days' previous notice in writing to the chairman of the district committee of the district within which such building, wall, fence, or inclosure is about to be commenced; and any person neglecting to give such notice shall be liable to a fine not exceeding five pounds; and it shall be lawful for the chairman of the said committee, with the sanction of the provincial committee, to cause any building, wall, fence, or inclosure, commenced or erected without such notice, to be removed, and to recover the costs of such removal in the manner provided in section 90 for the recovery of the costs therein mentioned: Provided that nothing herein contained shall be deemed to deprive any provincial or district committee of the power hereinafter conferred on them of removing any such building, wall, fence, or inclosure, if the same be ultimately discovered to be an encroachment, notwithstanding that no proceeding shall have been taken by them on the said notice.

Digitized by Google

87 Nothing herein contained shall be construed to prevent any public officer, duly authorized in that behalf, from making temporary use of any part of any thoroughfare for the public service, nor to prevent the chairman of any provincial or district committee from granting his license to the inhabitants for the erecting of temporary fences and inclosures, in order to the building, pulling down, or repairing of their houses and other buildings, or of temporary decorations, within such province or district, provided the length and breadth of such inclosures be described in such license, and that there be sufficient room for carriages and carts, or boats, to pass: Provided that the person obtaining such license shall immediately after sunset, during all the time that the inclosure shall continue, if so required by the said chairman of the provincial or district committee in such license, place and keep a sufficient light upon the premises till daybreak, and any person removing or extinguishing such light during such time shall be liable to a fine not exceeding one pound.

Where the erecting of temporary fences and inclosures is allowed.

88 Whenever it appears to a provincial or district committee that the line of any thoroughfare within the province or district for which such committee is assigned to act has been altered without proper authority, or has been stopped up, or obstructed, or encroached upon, such committee shall give notice in writing to the occupier of the land from off which the said thoroughfare shall be alleged to have been turned, or upon which such stoppage or obstruction or encroachment shall be alleged to have been made, that a survey of the premises has been made by the authority of such committee, and is open to the inspection of such occupier at a place to be therein mentioned, and that unless within one month from the service of such notice he, or the person under whom he holds, shall take legal proceedings for establishing his title to such land, and for preventing the removal of any such obstruction or encroachment, the said committee will proceed with the removal thereof, in manner provided by section 90 of this Ordinance; and if no such legal proceedings are taken within the time specified, or being taken are not duly prosecuted, it shall be the duty of such committee to cause any such obstruction or encroachment to be forthwith removed as hereinafter provided. Where legal proceedings are taken as aforesaid it shall be incumbent on the party claiming to be the owner of the land from off which the line of any thoroughfare has been alleged to have been altered or turned, or upon which such stoppage or obstruction or encroachment shall be alleged to have been made, to prove his title to such land.

Proof of right to apparent encroachment to rest upon the owner.

89 If any plan or survey made by the authority of the provincial or district committee shall be proved in evidence in any proceeding under this Ordinance, such plan or survey shall be deemed and taken to be conclusive proof of the facts exhibited therein, in so far as the claim of Her Majesty is concerned, unless satisfactory proof to the contrary shall be established by the party contesting such claim.

Survey by proper officer to be conclusive evidence.

Digitized by Google

Public Thoroughfares.

Removal of obstructions or encroachments.

90 It shall be lawful for the provincial or district committee to give order verbally, or by notice in writing, to any person obstructing or encroaching upon any thoroughfare situate within the province or district for which such committee is assigned to act, forthwith to remove or abate the same; and if any such person to whom such order shall have been given shall refuse or neglect to comply with the same within a reasonable time, or if there be any doubt as to who is the proper person to whom such order should be given, it shall be lawful for the said provincial or district committee to cause any such obstruction or encroachment to be forthwith removed or abated, and for that purpose it shall be lawful for the said committee, or any person thereto authorized in writing by the chairman thereof, where necessary, to enter into any house, garden, inclosure, or other premises, and to cause to enter therein such persons, with such instruments and things as may be necessary, and to proceed to do therein, or cause to be done, all such things as may be necessary for such removal or abatement; and upon the chairman of the said committee certifying to the police court of the district where such person resides, or where such obstruction or encroachment existed, the costs which have been *bonâ fide* incurred in effecting such removal or abatement, such court shall summon the party on account of whose non-compliance with any such order such costs were incurred, to appear before it on a certain day, then and there to make payment of the costs which shall appear to such court to have been properly incurred in that behalf; and if such party shall refuse or fail to make such payment forthwith, or within such time as the court shall appoint, the court shall proceed to recover such payment in such and the same manner as it would proceed to recover any fine incurred under any sentence of such court: Provided that if any removal shall be effected after the due production of all deeds, documents, and instruments affecting the title to such premises, and such premises shall nevertheless be adjudged to be the property of the party laying claim to the same, such committee shall be liable in damages for all loss and injury occasioned thereby; but if the party claiming to be the owner of such premises shall refuse or neglect to produce all such deeds, documents, and instruments, or if such deeds, documents, and instruments shall not be produced within ten days after application in that behalf, and any such committee shall nevertheless have caused the removal of such building, inclosure, or encroachment, then in the event of such premises being adjudged to be the property of the party claiming to be the owner thereof any such committee shall not be liable in damages for any loss or injury occasioned thereby.

Costs.

Proviso.

Injuries to Thoroughfares.

91 Whosoever shall commit any of the following offences on or relating to any thoroughfare shall be liable to a fine not exceeding £5:

Digitized by Google

Public Thoroughfares.

(1) Whosoever shall wilfully destroy, pull up, deface, throw down, break, or injure any milestone, mile-post, lamp-post, or direction post, or any bridge, battlement, arch, wall, dam, drain, sluice, lock, bank, abutment, mound, prop, post, lamp, railing, chain, or fence belonging to any thoroughfare or put up at or near any pit or quarry opened or used for getting road materials : **Destroying milestones, bridges, &c.**

(2) Whosoever shall wilfully and unnecessarily remove any fence, post, stone, log, or other thing laid or put up by the authority of the Commissioner of Roads, or of any provincial or district committee, on or in any thoroughfare, for the temporary prevention of the use thereof, or for preventing danger or injury to persons passing along the same whilst undergoing repair : **Removing fence, log, &c., put up or laid on thoroughfare to prevent temporarily its use.**

(3) Whosoever shall, without such authority as aforesaid, gather or heap up or take away any stones, gravel, sand, or other material, or any slutch, dirt, drift, or soil from any thoroughfare : **Taking away stones, gravel, &c.**

(4) Whosoever shall lead or drive any ox, horse, pig, or other animal from or off or on or into any thoroughfare in such manner as to cause injury to the same, or shall suffer any such animal to damage the same : **Injuring thoroughfare by driving ox, &c., from or on or into it.**

(5) Any owner or occupier of any land contiguous to any road who shall suffer the passage of the water from such road, or from any ditch or drain leading therefrom, to be obstructed by making or leaving any way or passage from any road into the adjoining land, or into his house, without a sufficient sewer, gullet, or pipe underneath it ; or who shall suffer any water, filth, or other substance or thing to flow or run from such land or house into or upon any such road, or shall suffer any accumulation of dirt or rubbish in any drain opposite to his house or land to impede the flow of water : **Suffering passage of water from road to be obstructed.** **Suffering water, filth, &c., to flow upon road.**

(6) Whosoever shall haul or draw upon any thoroughfare any timber, stone, or other thing, otherwise than upon wheeled carriages, or shall suffer any timber, stone, or other thing which shall be carried principally or in part upon wheeled carriages, to drag or trail upon such thoroughfare to the damage thereof : **Hauling or trailing timber, &c.**

(7) Whosoever shall make or cause to be made any dam, ditch, drain, or watercourse upon or across, or shall otherwise break up or injure, the surface of any thoroughfare : **Making any dams, ditch, drains, &c., upon or across any thoroughfare.**

(8) Whosoever shall attach additions to his house so as to project over the outer edge of the side drain of any road, or who shall by means of temporary supports or otherwise expose goods or wares of any description over any portion of a road or its side drain, or **Attaching additions to the eaves of houses, or causing carts to be loaded or unloaded in front of dwelling, &c.**

Digitized by Google

who shall by causing carts to be loaded or unloaded in front of his dwelling in any way injure the side drain.

Using new road for certain time after making.

92 It shall be lawful for any provincial or district committee to forbid all persons from riding or driving any kind of beast or carriage on any road within their province or district for such space of time as shall to them appear necessary, not exceeding one month after such road shall have been made or repaired; and any person who shall wilfully disobey such order (the same being duly notified by a notice affixed to a board or boards erected upon or near to such road) shall be liable to a fine not exceeding five pounds.

Owner or occupier bound to have bridge, &c., over drain leading to his house.

93 If the owner or occupant of any house or premises adjoining any road, by the side of which a drain shall have been made or excavated, shall require the means of access to such house or premises from such road, he shall be bound to place a bridge, platform, or arch, which shall in no case cover less than four feet of the length of such drain; and it shall be lawful for the provincial or district committee of the province or district in which such house or premises are situated, or for the Commissioner of Roads, if it shall come to their knowledge that any parties have access to any house or premises so situated without such bridge, platform, or arch as aforesaid, to call upon the owner or occupant thereof forthwith to construct the same, and if he shall fail to do so within a reasonable time, to cause the same to be done, and to recover the costs thereof in the manner provided in section 90 for the recovery of the costs therein mentioned.

Nuisances on Thoroughfares.

94 Whosoever shall commit any of the following offences shall, except where other provision is herein expressly made, be liable to a fine not exceeding £5:

Turning cattle loose on road or canal.

Tying cattle on or near road or canal.

(1) Whosoever shall turn or suffer to be turned loose any ox, horse, sheep, or goat, on any road or canal; or shall tie or tether any ox, horse, or other animal of any description, so that any such animal can or shall make its way into any road or canal, unless such animal shall be so tied or tethered during the time required for loading or unloading it, or for the loading or unloading of any cart or boat to which it may belong.

Seizure of stray cattle.

And it shall and may be lawful for any person thereto authorized by the chairman of a provincial or district committee to seize any ox, horse, sheep, or goat which he may find tied, tethered, or straying upon any thoroughfare within the province or district for which such committee is assigned to act, unless any such animal belong to any cart or boat to which it is tied or tethered whilst the same is being loaded or unloaded: Provided that if the person authorized as aforesaid shall not be a peace or police officer, every such animal seized by him shall be forthwith delivered into the custody of the nearest peace or police officer; and every such

Digitized by Google

officer seizing or receiving any such animal as aforesaid shall forthwith report such seizure to the proper police court, and such court shall, if at the time of such report no claim be made to such animal, direct such officer to take the necessary steps for the safe custody and maintenance thereof, and to publish such seizure in the usual manner; and no such animal seized as aforesaid shall be delivered to the owner thereof unless upon payment into such court of the sum of two shillings, for the use of the person by whom the same shall have been seized, and of a further sum of threepence for each day during which the same shall have been kept in the custody of the said officer, for the use of such officer; and if no person shall claim such animal or pay such dues as aforesaid within ten days after the animal shall have been so seized, it shall be lawful for such officer, and he is hereby required, to sell the same by public auction, and after payment of two shillings to the person by whom the same may have been seized, and of the sum due to himself for the custody and maintenance thereof, to pay the remainder of the produce of such sale, if any, to the police court for the use of Her Majesty.

Destruction of stray pigs.

(2) Any owner of a pig found tied, straying, burrowing, or wallowing in any road or canal shall be liable to a fine of three shillings; and it shall be lawful for every person to seize or shoot or otherwise destroy any pig that he may find tied, straying, burrowing, or wallowing in any road or canal; and such person may, if he choose, take such pig to any peace or police officer of the district in which the offence was committed, who shall forthwith sell the same, and pay the produce of such sale to such person.

Hanging up mats, &c.

(3) Whosoever shall hang up or otherwise expose any mats, cloths, or other substances on or at the side of any road, in a manner calculated to terrify horses or endanger the passengers.

Leaving carts on roads to which this provision is extended.

(4) Whosoever shall leave, or permit to be left, on any road to which this provision shall be extended, as hereinafter mentioned, any cart or other carriage, without the oxen, horses, or other animals being yoked or harnessed thereto, unless such cart or carriage shall have accidentally broken down there; and in case of such accident, for a longer time than may be necessary for its removal.

(5) Whosoever shall drive any cart drawn by one or more bullocks, or suffer the same to remain in any thoroughfare between the hours of sunset and sunrise, without having a light attached thereto.

Governor by Proclamation may extend this provision to any road.

And it shall be lawful for the Governor, with the advice of the Executive Council, by Proclamation to declare that the aforesaid provision shall extend and be applicable to any road in this colony, or to any section of such road, whenever it shall appear to the said Governor and Council that a

Digitized by Google

sufficient number of halting places have been constructed along the same; and thereupon such provision shall extend and apply to any road, or section of a road, mentioned in such Proclamation.

Leaving boat or timber, &c., so as to obstruct passage on canal.

(6) Whosoever shall leave any boat or raft in any canal in such a way as to obstruct the passage on such canal.

Laying stones, timber, rubbish, &c., on the road or canal.

(7) Whosoever shall lay or throw any stones, bricks, raft, timber, sand, lime, dung, straw, rubbish, or scourings of any ditch or drain, or other object or thing, on or in any road, river, or canal, and shall allow the same to remain there, except for such a period as shall be absolutely necessary for the removal thereof.

Persons placing stones upon roads at Jaffna.

And whereas it is customary in the cultivation of lands situated in the peninsula of Jaffna to remove the stones from the same from time to time, and whereas the stones so removed are frequently placed upon the roads: It is enacted that whenever any stones shall be found to be so placed upon any road within the district aforesaid, the placing thereof shall be deemed to be the act of the person in occupation of the land immediately adjoining, unless the contrary be proved, and such person shall be liable to the penalties herein provided.

Carrying timber, &c., crosswise.

(8) Whosoever shall lead or drive on any road any cart or other carriage with timber, boards, iron, or other goods, so that either end shall project beyond the wheels or sides thereof.

Encroachment on thoroughfare.

(9) Whosoever shall encroach on any thoroughfare by making or causing to be made any building, platform, hedge, ditch, or fence, or other obstruction upon or in any thoroughfare.

Leaving block on road.

(10) Whosoever shall, after having blocked or stopped any cart or other carriage in going up or down a hill or rising ground, cause or suffer to be or remain on any road the stone, timber, or other thing with which such cart or other carriage shall have been blocked or stopped.

Preventing others from passing.

(11) Whosoever shall in any manner wilfully prevent any other person, or any carriage, boat, raft, or other conveyance under his care, from passing along any thoroughfare.

Erection of kraals in canals and rivers.

(12) Whosoever shall place or continue any kraal or fence, or any other obstruction in any canal or river, so as to impede or in any way interfere with the convenient navigation thereof.

And it shall be lawful for the provincial committee to cause any such kraal, fence, or obstruction so placed or continued as aforesaid to be pulled up or otherwise destroyed, and to recover the costs thereof in the manner provided in section 90 for the recovery of the costs therein mentioned.

Road officer or road contractor

Provided that nothing herein contained shall render any officer in charge of any work on any thoroughfare, or any

Digitized by Google

road contractor, liable to any fine for any act done by such officer in the discharge of the duties of his office, or by such contractor in the necessary execution or performance of his contract; but if any such officer or contractor shall lay or cause to be laid any heap of stones, gravel, rubbish, or other matter whatever upon any road, and allow the same to remain there at night, to the danger or personal damage of any person passing thereon (all due and reasonable precautions not having been taken by him to prevent any such danger or damage), such officer or contractor shall be liable to a fine not exceeding five pounds. not liable to fine except in certain cases.

95 It shall be the duty of all officers of the police force, and of all headmen, police, and peace officers generally, to aid and assist in the prevention of all offences against this Ordinance within their respective jurisdictions; and every officer or headman who, being cognizant of any such offence, whether upon his own view or upon the information of others, shall fail to make complaint thereof before the duly constituted authority, or shall fail to act promptly and vigorously thereupon, shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding five pounds. Police officers and headmen to enforce provisions of Ordinance.

SCHEDULE.

Form A.

Division of ———, District of ———.

List of Residents in the House of *A. B.*, at ———.

Number of Inmates.	Names in full of Males.	Age.	Condition.	Whether he elects to commute or not.

Dated the ——— day of ———.

(*Signed by Division Officer.*)

N.B.—Any householder refusing or neglecting to fill up the above when required, or (if unable to write) to give the necessary information to the division officer, or wilfully giving any false information as to any matter required to be inserted herein, is liable to a fine of £5.

[Form B repealed by No. 31 of 1884.]

Form C.

Certificate of Performance of Labour.

No.——.

I certify that ———, of ——— , duly performed six days' labour due by him for the year 18—, between the ——— and ——— of ———, with the working party employed at ———.

(*Date.*) (*Signed by Officer in charge.*)

16th October, 1861.

Digitized by Google

No. 31 of 1884.

An Ordinance to amend Ordinance No. 10 of 1861, entitled "An Ordinance to consolidate and amend the Laws relating to Public Thoroughfares in this Colony."

Preamble.

WHEREAS it is expedient to amend Ordinance No. 10 of 1861, entitled "An Ordinance to consolidate and amend the Laws relating to Public Thoroughfares in this Colony:" Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Ordinance to be construed as one with Ordinance No. 10 of 1861.

1 This Ordinance, so far as is consistent with the tenor thereof, shall be construed as one with Ordinance No. 10 of 1861, entitled "An Ordinance to consolidate and amend the Laws relating to Public Thoroughfares in this Colony," and in this Ordinance referred to as "the principal Ordinance."

Short title.

2 This Ordinance may be cited as "The Road Ordinance, 1861, Amendment Ordinance, 1884."

Division officer to prepare lists of those liable to labour on the roads.

3 Every division officer shall, from the lists mentioned in the 42nd section of the principal Ordinance, as well as from such other information as he may possess, compile and prepare in duplicate a return showing the name and age of every person in his division liable to perform labour on the roads. Provided that it shall not be necessary for the division officer to ask the persons mentioned in such list who are liable to perform labour whether or not they elect to commute the same, anything in section 42 of the principal Ordinance to the contrary notwithstanding.

Returns to be prepared not later than twenty-first day of December in each year.

4 Such return shall be prepared not later than the twenty-first day of December in each year, and shall be published in each district on or before the thirty-first day of January in the following year, by affixing one of the duplicates or a copy thereof to such conspicuous place in the division as the chairman of the district road committee shall appoint.

Duplicate of return to be retained by chairman of district road committee.

5 The other duplicate shall be furnished to and be retained by the chairman of the district road committee.

Publication of returns to constitute notice of liability to labour.

6 The return so prepared shall be signed by the division officer who shall have prepared the same, and, as soon as published in the manner provided for by section 4 of this Ordinance, shall constitute notice to every person named therein of his liability to perform labour; and the production of either of the duplicates shall be conclusive proof of such notice.

Chairman of district road committee may exempt from labour on ground of disease or bodily infirmity.

7 It shall be lawful for the chairman of the district road committee, upon proof to his satisfaction that any person resident within the district and liable to the performance of labour is either from disease or bodily infirmity incapable of performing labour, to exempt such person from the performance thereof either for life or for such period as the chairman of the district road committee may think fit.

Every person whose name appears on the returns liable to labour.

8 Every person whose name is inscribed in the returns referred to in section 4 of this Ordinance, and which shall not have been struck off therefrom by the chairman of the district road committee, shall be liable to labour on the roads, and the returns either before or after amendment, should any amendment to them be made, or any copy thereof certified to be a copy by the chairman, shall be final and conclusive evidence of the liability to labour of any person whose name shall appear thereon, unless, in case of a copy, it shall be proved to the district road committee that such list was not a true copy of the original.

Digitized by Google

9 A supplemental return, should such be found necessary, may be prepared in the same manner as the return mentioned in section 4 of this Ordinance : Provided that any such supplemental return shall be published not later than the thirtieth day of April in any year, and provided that such supplemental return shall not include any person who was not an inhabitant on the thirty-first March of that year.

Supplemental returns may be prepared.

10 Upon any supplemental return being so published all the provisions of this and the principal Ordinance relating to returns shall apply, so far as may be practicable, to any such supplemental return in the same manner as if such return had been prepared and published under section 4 of this Ordinance.

Provisions of this or principal Ordinance relating to returns to apply to supplemental returns.

11 No person liable to perform labour shall be required to attend for the performance thereof on a Sunday, nor except during the customary hours of labour.

Performance of labour not to be required on Sundays, nor except during customary hours.

12 No person, except as hereinafter provided, shall be required to attend for the performance of labour on any principal thoroughfare nor on any minor thoroughfare which shall be at a greater distance from his residence than ten miles : Provided that the Governor, with the advice of the Executive Council, may from time to time vary the distance within the limit hereinbefore prescribed.

Persons not to be required to perform labour at greater distances from their residences than that fixed by Governor and Executive Council.

13 Every division officer, on being directed so to do by the chairman of the district committee, shall give notice to the inhabitants of his division liable to perform labour, who shall not in the manner hereafter provided have commuted the same, to attend and perform such labour at the time and place appointed by the chairman of the district road committee, and such notice shall be given by publication by beat of tom-tom not less than seven days before the day appointed for the attendance of such inhabitants, and in such other way, if any, as the chairman of the district road committee shall direct. Provided that no such notice shall be given until the time during which a person is, under section 26 of this Ordinance, allowed to commute, shall have elapsed.

Notice of when and where to labour to be given to those who are liable to perform labour.

[*See* § *1, 18 of 1885*]

14 Any person liable to perform labour, and who has not commuted in the manner hereinafter provided, who shall, without lawful excuse, the proof of which excuse shall lie on such person, fail to attend to perform labour at the time and place appointed for that purpose, or who shall fail to pay the amount of commutation money due by him as hereinafter provided, shall be liable, on receiving notice so to do, to labour on the thoroughfares or public tanks of the district in which such person's liability to work arose, for double the number of days for which such person was originally liable: Provided that the limitation as to distance prescribed by section 12 of this Ordinance shall not apply to persons required to perform double labour under this section, but if the distance of the place where such person is called upon to work under this section is greater than that mentioned in section 12 of this Ordinance, such person shall be provided with lodgings by the district road committee, and provided that any person who shall have become liable to the performance of the double labour under this section may commute such double labour in the manner hereinafter provided.

Persons failing to attend to perform labour liable to work for double the number of days such persons were originally liable.

15 If any person attending to perform labour due by him, whether it be labour for which he was originally liable, or the increased labour by reason of his having failed to attend in the first instance, shall, without lawful excuse, the proof of which excuse shall lie on such person, neglect or refuse to remain in attendance during the working hours, or who shall be guilty of any drunkenness, wilful neglect, or disobedience of the orders of the officer in charge of the work in which such person shall be employed, or of not taking due care of the tools and implements entrusted to him, or of any other misconduct in the performance of the labour required of him, every such person shall, after inquiry and on adjudication, be liable to be condemned by the chairman of the district road committee to work for an extra number of days, not exceeding three days

Persons guilty of misconduct while at labour liable to increased labour not exceeding three days for each offence.

Digitized by Google

for any one of the above offences: Provided that the aggregate amount of punishment imposed upon any one person under the provisions of this section shall not exceed six days' labour.

Persons neglecting or refusing to perform double or additional labour to be arrested on warrant of chairman of district road committee.

16 Whenever any person fails after receiving notice to attend, or neglects or refuses to perform or abandons the performance of double labour under section 14, or additional labour under section 15 of this Ordinance, he shall be guilty of an offence, and be liable to the punishment provided by section 18 of this Ordinance, and the chairman of the road committee of the district in which such person is bound to labour is hereby empowered and required, unless such person be otherwise before him, to issue his warrant for the arrest of such person, which warrant shall be substantially in the form A of the schedule hereunto annexed.

Persons by whom any such warrant may be executed.

17 Every such warrant of arrest may be executed by the person or persons to whom it is addressed, or by any police officer, headman, fiscal, or fiscal's officer, and every such warrant shall be executable throughout the island without any endorsement, anything in the Ordinance No. 3 of 1883,* entitled "An Ordinance for regulating the Procedure of the Courts of Criminal Judicature," to the contrary notwithstanding.

Person arrested to be taken before chairman of the district road committee, and, if found guilty, to be sentenced to imprisonment or to pay penalty.

18 Any person arrested under the provisions of this Ordinance shall be taken without delay before the chairman of the district road committee, according to the terms of the warrant, and the chairman before whom such person shall be brought shall inquire into the charge on which such person was arrested, and upon being satisfied that the party arrested is the person against whom the warrant was issued, and that the offence mentioned in such warrant was committed by such person, shall, and is hereby required, by warrant substantially in the form B of the schedule to this Ordinance, to commit such person to prison, there to be detained at hard labour for the period of one month: Provided that the chairman before whom any such person shall be brought may, in his discretion, in lieu of committing such person to prison, adjudge him to pay a penalty of ten rupees, and if such sum be paid forthwith, or within such time as the chairman may allow, such person shall not be committed to prison, but otherwise he shall, and the chairman may, if such person shall have been released prior to the payment of such fine when inflicted, issue, if necessary, a warrant for his arrest: Provided that from any decision of the chairman under this section there shall be no appeal.

Penalty to be credited to Government.

19 Any penalty so recovered shall forthwith be credited to Government, and be deemed and taken to be a payment to Her Majesty.

Warrant of arrest to be issued without any previous summons.

20 The warrant of arrest mentioned in the 16th section of this Ordinance shall be issued as a warrant of first instance, and it shall not be lawful for the chairman of the road committee of a province or the chairman of a district road committee to issue a summons or any other description of notice before issuing such warrant of arrest.

Register to be kept of warrants issued, &c.

21 A register shall be kept by the chairman of the district road committee in which shall be entered a list of all warrants issued under this Ordinance, the reasons for which such warrants were issued, and the punishment inflicted upon the offenders brought up in virtue of such warrants.

Persons condemned under this Ordinance to be sent to prison as ordinary prisoners.

22 Any person sentenced to imprisonment under the provisions of this Ordinance may be imprisoned in the prison of the district wherein he is condemned, in the same way as if he had been condemned under the authority of a court, justice of the peace, coroner, or deputy coroner, anything in the Ordinance No. 16 of 1877 to the contrary notwithstanding.

* Repealed by No. 15 of 1898.

Digitized by Google

23 The district road committee shall, upon the application of any person performing double labour under section 14, or increased labour under section 15 of this Ordinance, or whenever such committee may consider it necessary to do so, provide such person for every day that he may labour with either subsistence money equal to one-half of the ordinary rate of a cooly's wages, as paid in the district in which such work shall be performed, or with food, according as such committee may deem best; and any person who shall receive subsistence money or food in virtue of this section shall, in addition to the labour for which he was otherwise liable, labour on such works as are mentioned in section 14 of this Ordinance for an extra number of days, exclusive of Sundays, equal to the number of days for which he was liable to double labour or increased labour: Provided that any person shall, during the time that he may be so at labour, be subject to the provisions of sections 14, 15, and 16 of this Ordinance in respect of any of the offences therein mentioned.

District road committee may pay subsistence money or provide food to persons performing labour under sections 14 or 15.

24 If any person shall claim to be exempted from the performance of labour by reason that his age is less than eighteen years or exceeds fifty-five, or if at any time complaint shall be made that any person has been unduly exempted from labour on a like plea, or if any question shall be raised as to the rate of commutation which ought to be paid by any person for the labour due by him, or if any person shall refuse to labour upon any work upon the plea that the same is situated at a greater distance from the place where he resides than that prescribed, it shall be lawful for the chairman of the district road committee of the district to which any such person may belong to make such inquiry as he shall deem necessary, and to determine any such question; and the decision of such chairman shall be final.

District road committee to determine questions of age, or rate of commutation, or distance.

Commutation.

25 It shall be lawful for any inhabitant to commute the performance of the labour due by him for any one year, except any double or increased labour to which he may have become liable under sections 14 and 15 of this Ordinance, by a money payment of such sum not exceeding two rupees, as the Governor, with the advice of the Executive Council, may from time to time fix in respect of the province or district in which such inhabitant resides: Provided that the rates of commutation hitherto paid under the principal Ordinance shall be levied until altered by Proclamation. And it shall be lawful for any person who shall have become liable to the performance of double labour under section 14 of this Ordinance to commute such double labour by the payment of double the amount of the rate of commutation leviable in that district at any time previous to the day on which such person shall have been notified to perform double labour.

Permission to commute.

26 Any person desiring to commute the performance of labour by a money payment shall pay the amount due by him on or before the twenty-eighth day of February in each year, and up to such date a person shall not be liable to the penalties provided by section 14 of this Ordinance.

Persons desiring to commute when to pay commutation money.

27 The amount due by any person as commutation money shall be paid to a division officer of the district to which the person liable to pay may belong, or to the chairman of the road committee of the said district, who shall grant a receipt therefor, and any money paid as such commutation money shall be deemed and taken to be a payment to Her Majesty.

Commutation money to be paid to division officer or to chairman of district road committee and to be deemed a payment to Her Majesty.

28 Every division officer shall grant a receipt upon a form issued by and bearing the stamp of the district road committee, and shall pay over all such sums received by him as division officer to the district committee at such times and in such manner as such committee shall direct, and all such sums shall forthwith be deposited in the kachcheri

Division officer to grant receipts for commutation moneys, and to deposit the same

Digitized by Google

according to the instructions of the district road committee.

and shall be placed to the credit of the chairman of the district road committee, and the order of such chairman for the payment of any commutation money, together with the receipt of the party to whom the same is paid in pursuance thereof, shall be a full and sufficient authority and discharge for any such payment, and all such orders for payment as are mentioned in this or in the next preceding section shall be free of stamp duty.

Persons fraudulently making use of commutation receipts to be prosecuted.

29 If any person, who shall have paid the amount due by him as commutation money under this or the principal Ordinance, shall deliver any receipt given to him by the division officer or by the chairman of the district road committee to any other person, in order that such last-mentioned person may make use of the same in proof of his having paid any sum of money due by him, or for any other fraudulent purpose; or if any person shall deceitfully make use of any receipt given to any other person by a division officer or a chairman of a district road committee as a receipt given to him, such persons, or either of them, shall be guilty of an offence, and be liable to such punishments as the court before which they or either of them may be tried shall impose.

Provincial committee to forward yearly statements of accounts and recommendations for expenditure.

30 Every provincial committee shall, on or before the first day of August in every year, forward to the Colonial Secretary, for transmission to the Governor, a statement exhibiting the amount which the committee recommend should be expended during the ensuing year, together with a list of the roads, rivers, lakes, canals, resthouses, or other works on which the committee desire the said amount to be expended.

Governor may amend or alter such statements.

31 Subject to the enactment contained in section 32 of this Ordinance, the Governor may from time to time make any alteration or amendment in any such statement or list which may appear to him necessary, and propose such statements and lists or such amended statements and amended lists to the Legislative Council in the Ordinance providing for the contingent expenditure of the colony for the ensuing year.

If no statement sent in by provincial committee, Governor may prepare statements and submit same to Legislative Council.

32 In the event of any provincial committee failing to transmit such statement and list as hereinbefore mentioned on or before the first day of August, the Governor may, subject to the enactment contained in the next following section, make such statement and list as he shall consider necessary, and propose the same to the Legislative Council in the manner provided in the next preceding section of this Ordinance.

Amount of labour required for the performance of work, &c., to be stated in Ordinance to be passed for the purpose.

33 Whenever such statements and lists have been proposed by the Governor and approved by the Legislative Council, the amount of labour to be supplied for the performance of any works contained in such approved statements and lists shall be distinctly stated in the Ordinance enacted for the same, and shall in no case exceed two-thirds of the whole amount of labour due from the district or districts within which it may be required to be performed, less two-thirds of the necessary expenditure to be incurred in carrying out the provisions of this and the principal Ordinance.

Repealing clause.

34 Section 18 and sections 51 to 65, both inclusive, of the principal Ordinance, and the provisions of Ordinance No. 5 of 1866, entitled "An Ordinance to facilitate the recovery of Moneys due as Commutation of the Paddy Tax and of the Performance of Labour," in so far as they relate to the recovery of any amount due as commutation under the principal Ordinance or under this Ordinance, are hereby repealed; provided that such repeal shall not affect—

(*a*) The past operation of anything done or suffered under any enactment hereby repealed; nor

(*b*) Any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment hereby repealed; nor

Digitized by Google

(c) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed; nor

(d) Any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid.

35 This Ordinance shall not apply to nor operate within the limits of any town in which a municipality or a local board shall have been or may be hereafter established. Ordinance not to operate within limits of municipalities or towns having local boards.

SCHEDULE A.

Warrant of Arrest under Section 16 of Ordinance No. 31 of 1884.

To (*name and designation of person or persons who is or are to execute the warrant*).

Whereas ———, of ———, is charged with the offence (*here state the offence in terms of sections 14 or 15, according to the facts, as the case may be*), in breach of section 16 of Ordinance No. 31 of 1884: you are hereby directed to arrest the said ———, and to produce him before me at ———.

Dated the ——— day of ———.

(Signed) ———
(Chairman of the Road Committee of the
——— Province,
or Chairman, District Road Committee.)

SCHEDULE B.

Warrant of Commitment on a Sentence under Section 18 of Ordinance No. 31 of 1884.

To the Fiscal of the ——— Province.

Whereas on the ——— day of ———, 18—, (*name of prisoner*) was convicted before me (*name*, chairman of the road committee of the ——— Province, *or* chairman of the district road committee for the district of ———, *as the case may be*), of the offence of (*mention concisely the offence*), under section ——— of Ordinance No. 31 of 1884, and was sentenced to one month's imprisonment with hard labour:

This is to authorize and require you to receive the said (*prisoner's name*) into your custody in prison at ———, together with this warrant, and there to carry the aforesaid sentence into execution according to law.

Given under my hand this ——— day of ———, 18—.

———
(*Signature and Official Designation.*)

17th December, 1884.

No. 18 of 1885.

An Ordinance to amend the Ordinance No. 31 of 1884.

WHEREAS section 57 of Ordinance No. 10 of 1861, intituled "An Ordinance to consolidate and amend the Laws relating to Public Thoroughfares in this Colony," was repealed by section 34 of Preamble.

Digitized by Google

Ordinance No. 31 of 1884, and, in consequence of such repeal, no provision exists at present for the payment of subsistence money to persons performing labour other than the double labour prescribed under section 14 and the increased labour under section 15 of the last-mentioned Ordinance : And whereas it is expedient that such provision shall be made : Be it enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows :

District road committee may provide subsistence money or food.

1 It shall be lawful for the district road committee, upon the application of any person who shall have failed to commute within the time mentioned in section 26 of Ordinance No. 31 of 1884, and who shall be engaged in performing labour pursuant to notice received by him under section 13 of the said Ordinance, or whenever such committee in their discretion may consider it necessary to do so, to provide such person, for every day that he may labour, with either subsistence money equal to one-half of the ordinary rate of a cooly's wages as paid in the district in which such labour shall be performed, or with food, according as such committee may deem best ; and any person who shall be so provided with subsistence money or food shall be liable to the performance of twelve consecutive days' labour, exclusive of Sundays, in the same year, and shall be subject to the provisions of sections 12 and 15 of Ordinance No. 31 of 1884.

To be read with Ordinance No. 10 of 1861 and No. 31 of 1884.

2 This Ordinance shall be read and construed as one with Ordinance No. 10 of 1861 and Ordinance No. 31 of 1884.

9th December, 1885.

No. 1 of 1862.

An Ordinance for vesting all Lands and Property in Ceylon occupied by or for the Naval Service of the United Kingdom of Great Britain and Ireland in the Lord High Admiral, or the Commissioners for executing the Office of Lord High Admiral, of the said United Kingdom for the time being.

Preamble.

WHEREAS divers lands have been at various times purchased in Ceylon for the use of the naval service of the United Kingdom of Great Britain and Ireland, and conveyed to several different persons in trust for Her Majesty and her royal predecessors, and her and their heirs and successors, and the same have been placed under the charge of the commissioners for executing the office of Lord High Admiral of the said United Kingdom for the time being ; and it is expedient that the same and all other lands in Ceylon that may be hereafter purchased, or in any manner acquired by or used and occupied by or for the said service, should be vested in the Lord High Admiral of the United Kingdom, or the commissioners for executing the office of Lord High Admiral aforesaid, for the time being :

It is enacted as follows :

All lands, &c., held for the naval service vested in the Admiralty.

1 All lands and property which have been conveyed to or are vested in any person or persons, or are held or in any manner occupied by or in the name of any person in trust for Her Majesty or her royal predecessors, and her or their

Digitized by Google

heirs or successors, for the use of the naval service of the said United Kingdom, or of any of the departments of or belonging to the said naval service, by whatever title or for whatever interest therein the same shall be had, held, or occupied, together with all rights, servitudes, and appurtenances thereto belonging, shall be vested in the Lord High Admiral of the said United Kingdom, or the commissioners for executing the office of Lord High Admiral aforesaid for the time being, according to the respective nature and quality of the said lands, and the several interests therein respectively, in trust for Her Majesty, her heirs and successors, for the public service.

2 From and after the purchase and conveyance, grant or demise thereof, all other lands hereafter purchased, taken, held, or occupied by the Lord High Admiral or the commissioners aforesaid, or by any person by his or their order for the said naval service, or any of the departments thereof, and all things thereafter erected or built thereon, with the rights, servitudes, and appurtenances to the said lands and things respectively belonging, shall in like manner be vested in the Lord High Admiral or the said commissioners for the time being, according to the respective nature and quality of the said lands and things, and the several interests therein in trust as aforesaid.

Lands, &c., subsequently acquired for the naval service to vest in the Admiralty.

3 Upon the death, resignation, or removal of the present commissioners for executing the office of Lord High Admiral of the United Kingdom, or of any of them, or of any future such commissioners, or of any Lord High Admiral of the United Kingdom, all such lands and things shall become vested in and be held by the succeeding commissioners for executing the office of Lord High Admiral aforesaid, or the Lord High Admiral aforesaid, as the case may be, and so in perpetual succession, according to the respective nature and quality of the said lands and the several interests therein in trust as aforesaid.

Lands vested in the succeeding Lords Commissioners of the Admiralty.

4 In all deeds, conveyances, leases, contracts, and other instruments touching any land, property, matter, or thing relating to the said naval service, or to any department under the control of the commissioners aforesaid, or whereto they or any of them shall be parties, it shall be sufficient to describe them generally as "The Commissioners for executing the office of Lord High Admiral of the United Kingdom of Great Britain and Ireland," without expressing their names; and all such deeds, conveyances, leases, contracts, and other instruments wherein the said commissioners shall be so described, and the execution or signature thereof by any two of them, or any person or persons duly authorized to sign for them, shall be as valid as if they or any of them had been expressly named therein and had executed or signed the same.

Title by which Lords Commissioners of Admiralty may be cited.

5 The Lord High Admiral or the said commissioners, or any two or more of them, or any person duly authorized by him or them, may sell, exchange, or in any manner dispose

Lords Commissioners may sell,

Digitized by Google

exchange, or let land, &c.

of or let or demise any of the said lands or property, together with their respective appurtenances vested in them by this Ordinance, either by public auction or private contract, and in due form of law convey, lease, or demise the same respectively to any person, and do all things in relation to such lands or property, or for the better management thereof, which he or they shall deem beneficial for the public service, which might be done by any person having a like interest in such lands and property.

Lords Commissioners may maintain and defend suits, &c.

6 The Lord High Admiral, or the commissioners aforesaid for the time being, are hereby empowered to bring, prosecute, and maintain any suit or other proceeding at law, for recovering possession of any lands or property by this Ordinance vested in him or them, and to sue for any arrears of rent due in respect thereof, under any demise from the Lord High Admiral or commissioners, or any person on his or their behalf, or on behalf of Her Majesty, and also to bring, prosecute, or maintain, or to defend any other suit in respect of the said lands or property, or any trespass or encroachment committed thereon, or damage or injury done thereto; and in every such suit the said commissioners shall be called "The Commissioners for executing the office of Lord High Admiral of Great Britain and Ireland," without naming them; and no such suit shall abate by the death, resignation, or removal of such Lord High Admiral or of such commissioners, or any of them.

17th September, 1862.

No. 4 of 1862.

An Ordinance to amend the Ordinance No. 5 of 1861.

(*See under Ordinance No. 5 of 1861, page 364.*)

No. 7 of 1862.

An Ordinance for the Prevention of Cruelty to Animals.

Preamble.

WHEREAS it is expedient to prohibit by law the cruel and improper treatment of animals: It is enacted as follows:

Fine for cruelty to animals.

1 Any person cruelly beating, ill-treating, over-driving, abusing, or torturing any animal, or causing or procuring any animal to be cruelly beaten, ill-treated, over-driven, abused, or tortured, shall be guilty of an offence, and liable to a fine not exceeding five pounds.

Animals.

2 For the purpose of this Ordinance the word animal shall be taken to mean and include any elephant, horse, gelding, bull, ox, buffalo, steer, calf, mule, ass, sheep, lamb, hog, pig, goat, dog, cat, cock, capon, duck, goose, chicken, pigeon, or other domestic animal, and also any sea turtle.

Digitized by Google

3 Any person slaughtering, branding, conveying, or carrying, or causing to be slaughtered, branded, conveyed, or carried, any animal in such a manner or position as to subject such animal to unnecessary pain or suffering, shall be held to be ill-treating, abusing, and torturing such animal within the meaning of this Ordinance. **Improperly slaughtering or carrying animals.**

4 This Ordinance shall come into operation from the date of the passing thereof. **Commencement.**

1st October, 1862.

No. 9 of 1862.

An Ordinance for restricting the use of the Galle Face Burial Ground to the Garrison of Colombo, and to make other provision in respect thereof.

Preamble.

WHEREAS by two Crown grants, bearing date respectively the Sixteenth day of May, One thousand Eight hundred and Twenty-one, and the Eighteenth day of November, One thousand Eight hundred and Thirty-five, two allotments of land (now forming the Galle Face burial ground) were granted to certain trustees in trust for the military garrison and other British inhabitants of the fort, town, and district of Colombo professing the doctrine and discipline of the United Church of England and Ireland, and all who might thereafter belong to the said garrison, or become inhabitants as aforesaid, to be held as a cemetery or burial ground for the interment of the dead according to the rubric of the said United Church, and not to any profane or common use, for ever :

And whereas by a certain other Crown grant, bearing date the First day of December, One thousand Eight hundred and Forty-nine, a certain other allotment of ground, adjoining the allotments above mentioned, was granted to certain other trustees to be used as a burial ground for the interment of all persons professing to be members of the Church of Scotland :

And whereas the said last-mentioned allotment has been found unadapted for the purpose aforesaid, and has never in fact been so used :

And whereas by reason of the increase of British inhabitants since the said first-mentioned two grants were made it is necessary to restrict interments in the said Galle Face burial ground to persons belonging to the European garrison only, including those not professing the doctrines of the said United Church, and for whom no special provision has been made :

It is enacted as follows :

1 The several grants in the preamble mentioned are hereby made and declared to be henceforth null and void. **The trust deeds voided.**

Digitized by Google

New trusts reserved.

2 The said two pieces of ground first hereinbefore mentioned and now forming the Galle Face burial ground shall be held by the commandant of Colombo for the time being, the commanding Royal Engineer for the time being, and the government agent for the Western Province for the time being, in trust to be used as a cemetery or burial ground for the European garrison of Colombo for the interment of the dead according to the rules, rites, and ceremonies in each case of the religious denomination to which any deceased member of the said garrison belonged during his lifetime, to be performed by a minister of the said denomination, and not to any profane or common use, for ever: Provided that in case of any doubt existing as to the denomination to which such deceased member belonged, or in case there be no minister of that denomination, the interment shall be performed by such minister as the commanding officer of the garrison shall direct.

Monies and property held by former trustees to be handed over to present trustees.

3 All monies and other property held by the trustees under the aforesaid grants in respect of the said burial ground shall be paid and handed over to the trustees appointed by this Ordinance, and a receipt signed by the last-mentioned trustees shall be a complete discharge for the same.

Proviso as to existing vaults and monuments.

4 Provided that nothing in this Ordinance contained shall affect the rights of any person who shall have acquired a right to any existing vault or monument in the said burial ground.

Commencement.

5 This Ordinance shall come into operation on a day to be appointed by the Governor by Proclamation in the *Government Gazette.*

19th November, 1862.

No. 15 of 1862.

An Ordinance for the better preservation of Public Health and the suppression of Nuisances.

Preamble.

WHEREAS it is expedient to make further and more effectual provision for the preservation of the public health and for suppressing nuisances: It is enacted as follows:

Certain acts made offences.

1 Whosoever shall commit any of the following offences shall be liable to a fine not exceeding five pounds:

Keeping a house, &c., in a filthy state.

(1) Whosoever, being the owner or occupier of any house, building, or land in or near any road, street, or public thoroughfare, whether tenantable or otherwise, shall keep or suffer the same to be in a filthy and unwholesome state, or overgrown with rank and noisome vegetation, so as to be a nuisance to or injurious to the health of any person.

Digitized by Google

(2) Whosoever shall have in or upon any house, building, or land occupied by him any foul or offensive ditch, gutter, drain, privy, cesspool, or other receptacle.

Having foul and offensive drains.

(3) Whosoever, being the occupier of a house, building, or land in or near any road, street, or public thoroughfare, shall keep or allow to be kept for more than twenty-four hours, otherwise than in some proper receptacle, any accumulation of dung, offal, filth, refuse, or other noxious or offensive matter, or suffer such receptacle to be in a filthy or noxious state, or neglect to employ proper means to remove the filth therefrom and to cleanse and purify the same.

Keeping an accumulation of dung, &c.

(4) Whosoever shall keep in or upon any house, building, or land occupied by him any cattle, goat, swine, or other animal, so as to be a nuisance to or injurious to the health of any person.

Keeping cattle. goats, swine, &c.

(5) Whosoever, being the owner of a house, building, or wall, shall allow the same to be in a ruinous state, or in any way dangerous to the inhabitants of such house or building, or to the neighbouring houses or buildings, or to the occupiers thereof, or to passengers.

Allowing house, &c., to be in a state ruinous or likely to fall.

(6) Whosoever shall suffer any waste or stagnant water or other matter to remain in any place within the premises occupied by him, or shall allow the contents of any privy or cesspool to overflow or soak therefrom.

Suffering waste or stagnant water to remain, &c.

(7) Whosoever shall throw, put, or cast, or cause to enter in any stream, tank, reservoir, well, cistern, conduit, or aqueduct, any dead animal, or any dirt, rubbish, filth, or other noisome or offensive matter or thing, or shall cause or suffer to run, drain, or be brought thereinto any unwholesome or offensive liquid, matter, or thing, or flowing from any house or building or from any ground occupied by him, or shall do anything whereby any such water shall be in any degree fouled or corrupted.

Casting animals, dirt, &c., in streams.

(8) Whosoever shall keep in any market, shop, building, stall, or place used for the sale of butchers' meat, poultry, fish, fruit, or vegetable, or expose or shall allow to be exposed for sale in any place or way any animal, carcass, meat, poultry, game, flesh, fish, fruit, or vegetable which is unfit for the food of man.

Exposing for sale unwholesome meat, &c.

(9) Whosoever shall sell or offer or expose for sale as food or drink for man any article which has been rendered or has become noxious or unfit for such use, knowing or having reason to believe the same to be noxious or unfit for such use.

Selling noxious articles as food.

(10) Whosoever shall keep any manufactory or place of business from which offensive or unwholesome smells arise, without a license for that purpose, as provided in the fourth section.

Keeping manufactories without license.

Digitized by Google

Depositing cocoanut husks, &c.

(11) Whosoever shall keep or deposit any cocoanut husks, coir, or any other substance at or near such places, or in such a manner as to be a nuisance to or injurious to the health of any person.

Throwing dirt, &c., on roads, or into sewers.

(12) Whosoever shall throw or put, or permit his servants to throw or put, any earth, dirt, ashes, filth, refuse from any garden, kitchen, or stable, or any broken glass or earthenware, or other rubbish, on any street, road, or public place or passage, or into any sewer or drain.

Notice to the owner or occupier to abate the nuisance.

2 Whosoever shall continue or suffer to continue any of the nuisances above specified, after being convicted of any of the above offences, or after notice in writing prior to any conviction from the board of health, or any of its officers, or from the police magistrate, requiring him to abate or put an end to the same, shall be liable to a further fine not exceeding one pound for each day after such conviction or notice. And the court competent to try the offender is hereby empowered to impose such further fine, although the aggregate thereof may exceed in amount the jurisdiction of such court.

Markets may be visited, and unwholesome meat seized and destroyed.

3 Any person authorized by the board of health may, and he is hereby empowered, at all reasonable times, with or without assistants, to enter into and inspect any market, building, shop, stall, or place used for the sale of butchers' meat, poultry, fish, fruit, or vegetable, or as a slaughter-house, and to examine any animal, carcass, meat, poultry, game, flesh, fish, fruit, or vegetable which may be therein ; and in case any animal, carcass, meat, poultry, game, flesh, fish, fruit, or vegetable appear to him to be intended for the food of man, and to be unfit for such food, the same may be seized and conveyed to the nearest magistrate ; and if it appear to such magistrate, upon the evidence of a competent person. that any such animal, carcass, meat, poultry, game, flesh, fish, fruit, or vegetable was intended for the food of man and is unfit for such food, he shall order the same to be destroyed, or to be so disposed of as to prevent its being exposed for sale or used for such food.

What manufactories must be licensed.

4 No place shall be used within the limits of a town for the purposes of a manufactory or place of business from which offensive or unwholesome smells arise, except under a license from the government agent of the province, or assistant government agent of the district, within which such manufactory or place of business is used, who is hereby empowered at his discretion from time to time to grant such licenses, and the same, with the sanction of the Governor, to recall ; and the license shall be on a stamp of two pounds, and shall be substantially of the form in the schedule to this Ordinance appended.

Board of health may make by-laws.

5 The board of health for each province may make by-laws with respect to the removal by the owners and occupiers of houses of dust, ashes, rubbish, filth, manure, dung, and soil collected, placed, or found in or about any

Digitized by Google

house, stable, cowhouse, street, or place whatsoever, and for preventing the deposit thereof in or by the side of any street so as to be a nuisance to any person.

And for the draining, cleansing, covering, or filling up all ponds, pools, open ditches, sewers, drains, and places containing or used for the collection of any drainage, filth, water, matter, or thing of an offensive nature or likely to be prejudicial to health.

And for the cleansing, purifying, ventilating, and disinfecting of houses, dwellings, churches, and places of assembly by the owners or occupiers and persons having the care and ordering thereof.

And also for the preventing or mitigating any epidemic, endemic, or contagious diseases, and for the speedy interment of the dead during the prevalence of such diseases.

And all other provisions as are not specially enacted by this Ordinance, and as shall be necessary for the preservation of the public health and the suppression of nuisances.

Provided that no such by-laws shall be repugnant to the provisions of this Ordinance, and the same shall not be of any force and effect unless and until the same be submitted to and confirmed by the Governor and the Executive Council, who are hereby empowered to allow, amend, or disallow the same as they may think proper, and published in the *Government Gazette:* Provided also that the said board of health may, with the sanction of the Governor and the Executive Council, alter or repeal any such by-laws.

By-laws to be taken judicial notice of.

6 All courts and magistrates shall take judicial notice of such by-laws when the same shall have been confirmed and published as aforesaid.

Short particulars of offences and penalties to be published.

7 The board of health shall cause short particulars of the several offences for which any penalty is imposed by this Ordinance, or of any by-law made under this Ordinance, and of the amount of every such penalty, to be printed in the English and in the vernacular languages chiefly in use, and copies thereof to be circulated so as to secure due publicity to the same.

Breach of by-laws made an offence.

8 Any breach of by-laws so made as aforesaid shall be deemed an offence, and the person guilty thereof shall, on conviction, be liable to a fine not exceeding two pounds, and in the case of a continuing offence a further fine not exceeding the sum of ten shillings for each day after conviction for the original offence, or after written notice from the board of health, or any officer thereof in its name, or from the police magistrate, calling upon him to remove the same; and the court competent to try the offender is hereby empowered to impose such further fine, although the aggregate thereof may exceed in amount the jurisdiction of such court.

Digitized by Google

Nuisances.

Other nuisances not affected by this Ordinance.

9 Nothing in this Ordinance shall be construed to render lawful any act or omission on the part of any person which is, or but for this Ordinance would be, otherwise deemed to be a nuisance, or to exempt any person guilty of such nuisance from prosecution or action in respect thereof.

Service of notices.

10 Where any notice is required by this Ordinance to be given to the owner or occupier of any building or land, such notice addressed to the owner or occupier, as the case may require, may be served on the occupier of such building or land, or left with some adult member or servant of his family, or, if the notice cannot be so served, or if there be no occupier, may be put up on some conspicuous part of such building or land, and it shall not be necessary in any such notice to name the occupier or the owner.

Board of health or magistrate may abate nuisances.

11 If at any time it shall appear to the board of health or to the police magistrate that a nuisance ought to be abated, or any work or thing required by this Ordinance or by any by-law to be performed or done, such board or magistrate may give notice to the owner or occupier, as the case may be, requiring him to get such nuisance abated, or such work or thing performed or done, within such time as the board of health shall deem reasonable; and if after such notice default is made in the removal of the nuisance or the performance of such work, or in the doing of such thing, the board of health or police magistrate, whether any penalty is or is not provided for such default, may cause such nuisance to be removed or work to be performed or such thing to be done, and the expense thereby incurred, if not paid by the owner or occupier, or any person on his behalf, shall, when notified to the police court by the person entrusted with the performance of such work or the doing of such thing, and proved to be reasonable by the evidence of two or more competent persons, be recovered as any ordinary fine imposed by the court.

Occupier may execute works in default of owner.

12 Whenever default is made by the owner of any land in the execution of any work required to be executed by him, the occupier of such land may cause such work to be executed, and the cost thereof shall be paid to him by the owner.

Occupier executing works for owner may deduct his expenses from the rent.

13 Whenever the occupier of any land shall be put to any expense or pay any money for anything required under this Ordinance which is payable by the owner, being the defaulter, such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as is so paid by or recovered from him in respect of any such expenses, and he shall have a right to retain possession of such house until such expenses are paid or tendered to him.

Course if occupier obstruct owner.

14 If the occupier of any land prevent the owner thereof from carrying into effect any of the provisions of this Ordinance after notice of his intention so to do has been given by the owner to such occupier, any police magistrate, upon

Digitized by Google

proof thereof, may make an order in writing requiring such occupier to permit the owner to execute all such works as may be necessary for carrying into effect the provisions of this Ordinance ; and if after the expiration of eight days from the date of the order such occupier refuse to permit such owner to execute such works, such occupier shall, for every day during which he so continues to refuse, be liable to a fine not exceeding two pounds ; and every such owner during the continuance of such refusal shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

Power to enter into lands.

15 The board of health or police magistrate shall, for the purposes of this Ordinance, have power by themselves or their officers to enter at all reasonable hours in the daytime into and upon any land, for the purpose of inspecting the same or removing any nuisance or executing any work authorized by this Ordinance, without being liable to any legal proceedings or molestation whatever on account of such entry, or of anything done in any part of the land in pursuance of this Ordinance.

Obstruction of board of health or magistrate, or their officers.

16 Whoever at any time shall obstruct or molest the board of health or police magistrate, or any of their officers or workmen, or any person employed by them in the performance and execution of their duty, or of anything which they are respectively empowered or required to do by virtue or in consequence of this Ordinance, shall be guilty of an offence, and liable on conviction to a fine not exceeding five pounds.

Informer's share.

17 The magistrate by whom any fine is imposed by virtue of this Ordinance may award any portion not exceeding one half thereof to the informer.

Limitation of prosecutions.

18 No person shall be liable to any fine for any offence committed under this Ordinance, unless the complaint respecting such offence shall have been made before a magistrate within three months next after the commission of such offence.

Police officers to assist.

19 It shall be the duty of all officers of the police force, and of all headmen, police and peace officers generally, to aid and assist in the prevention of all offences against this Ordinance within their respective jurisdiction ; and any officer or headman who being cognizant of any such offence, whether upon his own view or upon the information of others, shall fail to make complaint thereof before the duly constituted authority, or shall fail to act promptly and vigorously thereupon, shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding five pounds.

Interpretation clause.

20 In construing this Ordinance the terms "board of health" and "police magistrate" shall be respectively held to mean the board of health of the province, or the police magistrate of the district, within which the nuisance exists or any work or thing has to be performed or done.

Digitized by Google

Short title. 21 This Ordinance may be cited as "The Nuisances Ordinance, 1862."

Commencement of Ordinance. 22 This Ordinance shall come into operation on the First January next.

SCHEDULE.

A. B., of ———, is hereby empowered to keep a manufactory or place of business for ——— at ———.

C. D.,
(*Date.*) Government Agent for the Province,
or
Assistant Government Agent for the District of ———.

10th December, 1862.

No. 7 of 1863.

An Ordinance relating to Merchant Shipping.

(*As amended by No. 3 of 1884 and No. 3 of 1888.*)

(*See No. 3 of 1884, No. 3 of 1888, and No. 6 of 1899.**)

Preamble. WHEREAS by section CCLXXXVIII. of an Act of the Imperial Parliament called "The Merchant Shipping Act, 1854," it is enacted that "if the respective legislative authorities in any British possession abroad, by any Acts, Ordinances, or other appropriate legal means, apply or adapt any of the provisions in the third part of this Act contained to any British ships registered at, trading with, or being at any place within their respective jurisdictions, and to the owners, masters, mates, and crews thereof, such provisions, when so applied and adapted as aforesaid, and as long as they remain in force, shall, in respect of the ships and persons to which the same are applied, be enforced, and penalties and punishments for the breach thereof shall be recovered and inflicted throughout Her Majesty's dominions, in the same manner as if such provisions had been hereby so adapted and applied, and such penalties and punishments had been hereby expressly imposed :" And whereas it is expedient to apply to ships registered at, trading with, or being at any place within the limits of Ceylon, certain provisions of the third part of the said Act, with such adaptations and modifications as are required by the circumstances of this island: It is enacted as follows :

Interpretation. 1 The following words and expressions in this Ordinance shall have the meanings hereby assigned to them unless there be something in the subject or context repugnant to such construction :

[§ *2, 3 of 1888*] (1) "*Coastwise ship*" *shall include every ship employed in trading or going between any ports or places in this island or between any such port or place and any port or place on the coast of India between Bombay and Calcutta.*

---

* No. 6 of 1899 printed after No. 5 of 1861, see page 365.

Digitized by Google

(2) "*Foreign-going ship*" *shall include every ship employed in trading or going between some port or place in this island and some port or place beyond the limits of this island, excepting that part of the coast of India which lies between Bombay and Calcutta.*

The word "master" shall include every person (except a pilot) having command or charge of any ship; the word "seaman" shall include every person (except masters, pilots, and apprentices) employed or engaged in any capacity on board any ship; "ship" shall include every description of vessel used in navigation not propelled with oars; and the word "person" shall include a corporation.

Appointment of Superintendent.

2 The Principal Collector of Customs* shall throughout Ceylon have the general superintendence of all matters relating to this Ordinance, and it shall be lawful for the Governor to appoint any officer of customs or any other person to be shipping officer at any port, and to perform such duties as are hereinafter mentioned. Due notice of every such appointment shall be published in the *Government Gazette.*

Principal Collector of Customs to be superintendent. Governor to appoint shipping officers.

Shipping Offices.

3 A shipping office shall be established at each of the ports of Colombo, Galle, Trincomalie, and Jaffna, and at such other ports as the Governor shall hereafter deem necessary. For every such office there shall be a superintendent, to be called a "shipping officer," with such necessary deputies, clerks, and servants, at such salaries or other allowances, and subject to such regulations, as the Governor shall from time to time direct and appoint. Every act done by or before any deputy duly appointed shall have the same effect as if done by or before a shipping officer.

Shipping offices.

4 The whole or any part of the business of the shipping office shall be conducted at the custom house, or at the office of the master attendant or harbour master, or at such other office as the Governor shall direct; and in respect of such business such custom house or office as aforesaid shall for all purposes be deemed to be a shipping office, and the officer of customs or other officer there to whom such business is committed shall for all purposes be deemed to be a shipping officer within the meaning of this Ordinance.

Business of shipping office may be transacted at custom house or elsewhere.

5 It shall be the general business of shipping officers to superintend and facilitate the engagement and discharge of seamen in manner hereinafter mentioned, and to perform such other duties relating to merchant seamen and merchant ships as are hereby, or under the said "Merchant Shipping Act, 1854," or as may hereafter under the powers herein contained, be committed to them. It shall also be the duty of

Business of shipping officer.

* Collectors of customs register ships exceeding 15 tons burthen under section 19 of "The Merchant Shipping Act, 1854."

Digitized by Google

shipping officers to give to all persons desirous of apprenticing boys to the sea service, and also to masters and owners of ships requiring apprentices, such assistance as may be in their power for facilitating the making of such apprenticeships.

Fees to be paid upon engagements and discharges.

6 Such fees not exceeding the sums specified in the table marked A in the schedule to this Ordinance, as are from time to time fixed by the Governor, shall be payable to the shipping officers upon all engagements and discharges effected before shipping officers as hereinafter mentioned. Scales of the fees payable for the time being shall be conspicuously placed in the shipping offices; and all shipping officers, their deputies, clerks, and servants may refuse to proceed with any engagement unless the fees payable thereon are first paid.

Fees by whom to be paid, &c.

7 Every owner or master of a ship engaging or discharging any seaman in a shipping office or before a shipping officer shall pay to the shipping officer the whole of the fees hereby made payable in respect of such engagement or discharge, and may, for the purpose of in part reimbursing himself, deduct in respect of each such engagement or discharge from the wages of all persons (except apprentices) so engaged or discharged, and retain any sums not exceeding the sums specified in that behalf in the table marked B in the schedule hereto: Provided that if in any cases the sums which the owner is so entitled to deduct exceed the amount of the fee payable by him, such excess shall be paid by him to the shipping officer in addition to such fee.

Penalty on shipping officer asking other remuneration.

8 Any shipping officer, deputy shipping officer, or any clerk or servant in any shipping office, who demands or receives any remuneration whatever, either directly or indirectly, for hiring or supplying any seaman for any merchant ship, excepting the lawful fees payable under this Ordinance, shall for every such offence incur a penalty not exceeding £20, and may be dismissed from his office.

Examinations and Certificates of Masters and Mates.

Examinations. [§ 3, 3 of 1888]

9 *Examinations shall be instituted for persons who intend to become masters or mates of coastwise ships or foreign-going ships registered in this island, of the burthen of fifty tons and upwards, or who wish to procure certificates of competency hereinafter mentioned.*

Examiners. [§ 3, 3 of 1888]

10 *The Governor shall from time to time nominate two or more competent persons as examiners, and make rules as to the conduct of such examinations and as to the qualifications of the various classes of applicants, and such rules shall be strictly adhered to by the examiners.*

Fees.

Fees at the following rates shall be paid to the examiners by all applicants for examination:

		Of a Foreign-going Ship. Rs. c.		Of a Coastwise Ship. Rs. c.
For a certificate as master	...	*20 0*	...	*10 0*
For a certificate as mate	...	*10 0*	...	*5 0*

Digitized by Google

11 *The examiners shall deliver to every applicant who has passed the examination satisfactorily, and who has given satisfactory evidence of his sobriety, experience, ability, and general good conduct on board ship, a certificate, hereinafter called a "certificate of competency," to the effect that he is competent to act as master or mate of a coastwise ship registered in this island, or as master or mate of a foreign-going ship registered in this island, as the case may be.* *Certificates of competency.* *[§ 3, 3 of 1888]*

12 Repealed by section 2 of No. 3 of 1884.

13 No ship registered* in this island of a burthen of 50 tons or upwards shall go to sea from any port in this island unless the master, and one officer besides the master, have obtained and possess valid and appropriate certificates either of competency or service under this Ordinance, or under the British or Indian Merchant Shipping Acts; and whosoever, having been engaged to serve as master or mate, goes to sea as such master or mate without being at the time entitled to and possessed of such a certificate as hereinbefore required, and whosoever employs any person as such master or mate without ascertaining that he is at the time entitled to and possessed of such certificate, shall for each such offence be liable to a penalty not exceeding £20. **No ship of 50 tons to go to sea without certificated master, &c.**

14 Every certificate, whether of competency or service, shall be made in duplicate; one part shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded by the Principal Collector of Customs. A note of all orders made for cancelling, suspending, altering, or otherwise affecting any certificate, in pursuance of the powers herein contained, shall be entered in the record of certificates. **Record of grants, cancellations, &c., of certificates.**

15 Whenever any master or mate proves to the satisfaction of the Principal Collector of Customs that he has, without fault on his part, lost or been deprived of any certificate already granted to him, a copy of the certificate shall, on payment of a fee of five shillings, be delivered to him, and such copy shall have all the effect of the original. **Loss of certificate.**

Engagement of Seamen.

16 The Governor may authorize the granting to such persons as may be deemed fit, of licenses to engage or supply seamen for merchant ships, such licenses to continue for such periods, and upon such terms, and to be revocable upon such conditions, as the Governor thinks proper and shall direct. If after such license shall be granted at any port any person shall engage or supply seamen for merchant ships without a license, he shall be liable to a fine not exceeding five pounds. **Licenses to procure seamen.**

17 The master of every ship of the burthen of 50 tons and upwards, other than a coastwise ship, shall enter into an agreement with every seaman whom he carries to sea from **Agreements with seamen.**

* Collectors of customs register ships exceeding 15 tons burthen under section 19 of "The Merchant Shipping Act, 1854."

Digitized by Google

any port in this island as one of his crew, in the manner hereinafter mentioned; and every such agreement shall be in a form sanctioned by the Governor, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same, and shall contain the following particulars as terms thereof; (that is to say,)

(1) The nature and, as far as practicable, the duration of the intended voyage or engagement:

(2) The number and description of the crew, specifying how many are engaged as sailors:

(3) The time at which each seaman is to be on board or to begin work:

(4) The capacity in which each seaman is to serve:

(5) The amount of wages which each seaman is to receive:

(6) A scale of the provisions which are to be furnished to each seaman:

And every such agreement shall be so framed as to admit of stipulations, to be adopted at the will of the master and seaman in each case (not being inconsistent with the provisions of this Ordinance), as to advance an allotment of wages, and may contain any other stipulations which are not contrary to law; provided that if the master of any ship belonging to the United Kingdom or any British possession has an agreement with his crew made in due form according to the law of the place to which such ship belongs or in which her crew were engaged, and engages single seamen in any port within this island, such seamen may sign the agreement so made, and it shall not be necessary for them to sign an agreement under this Ordinance: Provided also that in the case of Ceylon or Indian seamen, when it shall be agreed that the service of any such seamen shall end at any port not in this island, the agreement shall contain stipulations for providing for such seamen fit employment on board some other vessel bound to the port at which they were shipped, or such other port as may be agreed on, or for providing them a passage to some such port as aforesaid free of charge, or on such other terms as may be agreed on; and every such stipulation shall be signed by the owner of the vessel or by the master on his behalf, and shall be binding upon the said owner.

Proviso as to forms for British or colonial ships.

Proviso where Ceylon or Indian seamen are shipped.

Agreements, except in special cases, to be made before and attested by a shipping officer.

18 In the case of all ships, in whatever part of Her Majesty's dominions the same are registered, the following rules shall be observed with respect to agreements; (that is to say,)

Agreement to be signed by seamen.

(1) Every agreement made in any port of this island (except in such cases of agreements with substitutes as are hereinafter specially provided for) shall be signed by each seaman in the presence of a shipping officer:

Digitized by Google

(2) Such shipping officer shall cause the agreement to be read over and explained to each seaman in a language understood by him, or shall otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature : **Shipping officer to cause agreement to be explained to seamen.**

(3) When the crew is first engaged the agreement shall be signed in duplicate ; one shall be retained by the shipping officer, and the other (which shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship) shall be delivered to the master : **To be in duplicate.**

(4) In the case of substitutes engaged in the place of seamen who have duly signed the agreement, and whose services are lost within twenty-four hours of the ship's putting to sea, by death, desertion, or other unforeseen cause, the engagement shall, when practicable, be made before some shipping officer duly appointed in the manner hereinbefore specified; and whenever such last-mentioned engagement cannot be so made, the master shall, before the ship puts to sea, if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to the seamen ; and the seamen shall thereupon sign the same in the presence of a witness, who shall attest their signatures. **Provision for substitutes.**

19 In the case of ships making voyages averaging less than six months in duration, running agreements with the crew may be made to extend over two or more voyages, or for a period not exceeding twelve months, so that no such agreement shall extend beyond the next following 31st day of December of each year, or the first arrival of the ship at her port of destination within this island after such date, or the discharge of cargo consequent upon such arrival; and every person entering into such agreement, whether engaged upon the first commencement thereof or otherwise, shall enter into and sign the same in the manner hereby required for other foreign-going ships ; and every person engaged thereunder, if discharged in any port within the said island, shall be discharged in the manner hereby required for the discharge of seamen belonging to other foreign-going ships. **Ships making short voyages may have running agreements.**

20 The master of every ship for which such a running agreement as aforesaid is made shall, upon every return to any port of this island before the final termination of the agreement, discharge or engage before the shipping officer at such port any seaman whom he is required by law so to discharge or engage ; and shall upon every such return endorse on the agreement a statement (as the case may be) either that no such discharges or engagements have been made or are intended to be made before the ship again leaves port, or that all such discharges or engagements have been duly made as hereinbefore required, and shall deliver the agreement so endorsed to the shipping officer ; and any master who **Engagement and discharge of seamen in the meantime.**

Digitized by Google

wilfully makes a false statement in such endorsement shall incur a penalty not exceeding £20 ; and the shipping officer shall also sign an endorsement on the agreement to the effect that the provisions of this Ordinance relating to such agreement have been complied with, and shall re-deliver the agreement so endorsed to the master.

Fees to be paid on such running agreements.

21 For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging to ships which have running agreements as aforesaid, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged when the agreement finally terminates; and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

In coastwise ships, or ships of less than 50 tons, agreements may be entered into before a shipping officer.

22 In the case of coastwise ships, or of ships of less than 50 tons burthen, crews or single seamen may, if the master thinks fit, be engaged before a shipping officer in the manner hereinbefore directed with respect to ships of 50 tons burthen and upwards.

Penalty for shipping seamen without agreement duly executed.

23 If in any case a master carries any seaman to sea without entering into an agreement with him in the form and manner and at the place and time hereby in such case required, the master shall for each such offence incur a penalty not exceeding five pounds.

Foregoing provisions applicable to foreign ships shipping British or Ceylon or Indian seamen.

24 The foregoing provisions relative to the engagement of and agreements with seamen shall be applicable also in respect of all ships belonging to the subjects of any foreign state upon which any British or Ceylon or Indian seamen may be shipped at any port within this island.

To prevent infraction of Ordinance, shipping officer may board vessels and muster seamen.

25 For the purpose of preventing any seamen from being shipped at any port in this island contrary to the provisions of this Ordinance, the shipping officer by himself or his deputy may enter at any time on board any ship upon which he shall have reason to believe that seamen have been shipped, and may muster and examine the several seamen employed therein ; and any person who shall obstruct the said shipping officer or deputy in such duty shall be liable to a penalty not exceeding five pounds.

Production of agreements and certificates.

26 The following rules shall be observed with respect to the production of agreements and certificates of competency or service for ships ; (that is to say,)

(1) The master shall, on signing the agreement with his crew, produce to the shipping officer before whom the same is signed the certificates of competency or service which the said master and his mate are hereby required to possess; and upon such production being duly made, and the agreement being duly executed as hereby required, the shipping officer shall sign and give to the master a certificate to that effect.

Digitized by Google

(2) In the case of running agreements for ships, the shipping officer shall, before the second and every subsequent voyage made after the first commencement of the agreement, sign and give to the master, on his complying with the provisions herein contained with respect to such agreements, and producing to the shipping officer the certificate of competency or service of any mate then first engaged by him, a certificate to that effect.

(3) The master shall, before proceeding to sea, produce the certificate so to be given to him by the shipping officer as aforesaid to the collector of customs, and no officer of customs shall clear any ship outwards in respect of which agreements and certificates are hereinbefore required without such production; and if any such ship attempts to go to sea without a certificate, any such officer may detain her until such certificate as aforesaid is produced.

(4) The master shall, within forty-eight hours after the ship's arrival at her final port of destination within this island, or upon the discharge of the crew, whichever first happens, deliver the agreement to a shipping officer at such port; such shipping officer shall thereupon give to the master a certificate of such delivery; and no officer of customs shall clear any ship inwards in respect of which agreements and certificates are hereinbefore required without the production of such certificate.

And if any master fail to deliver the agreement to a shipping officer at the time and in the manner hereby directed, he shall for every default incur a penalty not exceeding five pounds.

27 Every erasure, interlineation, or alteration in any such agreement with seamen as is required by this Ordinance (except additions so made as hereinbefore directed for shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested in such erasure, interlineation, or alteration by the written attestation (if made in Her Majesty's dominions) of some shipping officer, justice, officer of customs, or other public functionary, or (if made out of Her Majesty's dominions) of a British consular officer or, where there is no such officer, of two respectable British merchants. **Alterations to be void unless attested to have been made with the consent of all parties.**

28 The master shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement, and if necessary a translation thereof in a language understood by the majority of the crew (omitting the signatures), to be placed or posted up in such part of the ship as to be accessible to the crew, and in default shall incur a penalty not exceeding five pounds. **Copy of agreement to be made accessible to crew.**

29 Any seaman who has signed an agreement, and is afterwards discharged before the commencement of the **Seamen discharged**

Digitized by Google

before voyage to have compensation.

voyage or before one month's wages are earned, without fault on his part justifying such discharge, and without his consent, shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation for the damage thereby caused to him, not exceeding one month's wages, and may, on adducing such evidence as the court hearing the case deems satisfactory of his having been so improperly discharged as aforesaid, recover such compensation as if it were wages duly earned.

Regulation of Advances.

Regulation of advances and advance notes.

30 No advance of wages shall be made or advance note given to any person but the seaman himself; and no advance note shall be given to any seaman who signs the agreement before a shipping master, unless in the presence of such shipping master.

Advances irregularly or improperly made not to be a discharge of wages.

31 If any advance of wages is made or any advance note given to any seaman in any such manner as to constitute a breach of any of the above provisions, the wages of such seaman shall be recoverable by him as if no such advance had been made or advance note given; and in the case of any advance note so given no person shall be sued thereon under the provisions hereinafter contained, unless he was in person or by his agent a party to the irregular or improper manner of giving the same.

Allotment of Wages.

Regulations as to allotment notes.

32 All stipulations for the allotment of any part of the wages of a seaman during his absence which are made at the commencement of the voyage shall be inserted in the agreement, and shall state the amounts and times of the payments to be made.

Allotment notes may be sued on summarily by certain persons and under certain conditions.

33 The person in whose favour an allotment note of part of the wages of such seaman is made may, unless the seaman is shown in manner hereinafter mentioned to have forfeited or ceased to be entitled to the wages out of which the allotment is to be paid, sue for and recover the sums allotted by the note when and as the same are made payable, with costs, from the owner or any agent who has authorized the drawing of the note; and in any such proceeding it shall be sufficient for the claimant to prove that he is the person mentioned in the note, and that the note was given by the owner or by the master or some other authorized agent; and the seaman shall be presumed to be duly earning his wages, unless the contrary is shown to the satisfaction of the court, either by the official statement of the change in the crew caused by his absence made and signed by the master, as by this Ordinance is required, or by a duly certified copy of some entry in the official log book to the effect that he has left the ship, or by a credible letter from the master of the ship to the same effect, or by such other evidence, of whatever description, as the court in its absolute discretion considers sufficient to show satisfactorily that the seaman has ceased to be entitled to the wages out of which the allotment is to be paid.

Digitized by Google

Discharge and Payment of Wages.

Discharge from ships to be made before shipping officer.

34 All seamen discharged from any ship at any port within this island, in whatever part of Her Majesty's dominions the ship is registered, shall be discharged and receive their wages in the presence of a shipping officer duly appointed under this Ordinance, except in cases where some competent court otherwise directs; and any master or owner of any such ship who discharges any seaman belonging thereto, or except as aforesaid pays his wages in any other manner, shall incur a penalty not exceeding five pounds.

Master to deliver account of wages.

35 Every master of such ship shall, not less than twenty-four hours before paying off or discharging any seaman, deliver to him, or, if he is to be discharged before a shipping officer, to such shipping officer, a full and true account of his wages and of all deductions to be made therefrom on any account whatever, and in default shall for each offence incur a penalty not exceeding five pounds; and no deduction from the wages of any seaman (except in respect of any matter happening after such delivery) shall be allowed unless it is included in the account so delivered; and the master shall during the voyage enter the various matters in respect of which such deductions are made, with the amounts of the respective deductions as they occur, in a book to be kept for that purpose, and shall, if required, produce such book at the time of the payment of wages and also upon the hearing before any competent authority of any complaint or question relating to such payments.

On discharge, masters to give seamen certificates of discharge, and return certificates of competency or service to mates.

36 Upon the discharge of any seaman, or upon payment of his wages, the master shall sign and give him a certificate of his discharge, specifying the period of his services and the time and place of his discharge; and if any master fail to sign and give to any such seaman such certificate of discharge, he shall for each such offence incur a penalty not exceeding five pounds; and the master shall also, upon the discharge of every certificated mate whose certificate of competency or service has been delivered to and retained by him, return such certificate, and shall in default incur a penalty not exceeding five pounds.

Shipping officer may decide questions which parties refer to him.

37 Every shipping officer shall hear and decide any question whatever between a master or owner and any of his crew which both parties agree in writing to submit to him; and every award so made by him shall be binding on both parties, and shall in any legal proceeding which may be taken in the matter before any court of justice be deemed to be conclusive as to the rights of the parties; and any document purporting to be such submission or award shall be *primâ facie* evidence thereof.

Masters and others to produce ship's papers to shipping officer, and give evidence.

38 In any proceeding relating to the wages, claims, or discharge of any seaman carried on before any shipping officer under the provisions of this Ordinance, such shipping officer may call upon the owner or his agent, or upon the master or any mate or other member of the crew, to produce

Digitized by Google

any log books, papers, or other documents in their respective possession or power relating to any matter in question in such proceeding, and may call before him and examine any of such persons being then at or near the place on any such matter; and every owner, agent, master, mate, or other member of the crew who, when called upon by the shipping officer, does not produce any such paper or document as aforesaid, if in his possession or power, or does not appear and give evidence, shall, unless he shows some reasonable excuse for such default, for each such offence incur a penalty not exceeding five pounds.

Settlement of wages.

39 The following rules shall be observed with respect to the settlement of wages; (that is to say,)

Release to be signed before and attested by the shipping officer;

(1) Upon the completion before a shipping officer of any discharge and settlement, the master or owner and each seaman shall respectively, in the presence of the shipping officer, sign a mutual release of all claims in respect of the past voyage or engagement, and the shipping officer shall also sign and attest the release and shall retain the same.

to be a discharge;

(2) Such release so signed and attested shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement.

and to be evidence.

(3) A copy of such release, certified under the hand of such shipping officer to be a true copy, shall be given by him to any party thereto requiring the same, and such copy shall be receivable in evidence upon any future question touching such claims as aforesaid, and shall have all the effect of the original of which it purports to be a copy.

No other receipt to be a discharge.

(4) In cases in which discharge and settlement before a shipping officer are hereby required, no payment, receipt, settlement, or discharge otherwise made shall operate or be admitted as evidence of the release or satisfaction of any claim.

Voucher to be given to master. and to be evidence.

(5) Upon any payment being made by a master before a shipping officer, the shipping officer shall, if required, sign and give to such master a statement of the whole amount so paid, and such statement shall, as between the master and his employer, be received as evidence that he has made the payments therein mentioned.

Legal Rights to Wages.

Right to wages and provisions when to begin.

40 A seaman's right to wages and provisions shall be taken to commence either at the time at which he commences work, or at the time specified in the agreement for his commencement of work or presence on board, whichever first happens.

Digitized by Google

41 No seaman shall by any agreement forfeit his lien upon the ship or be deprived of any remedy for the recovery of his wages to which he would otherwise have been entitled; and every stipulation in any agreement inconsistent with any provision of this Ordinance, and every stipulation by which any seaman consents to abandon his right to wages in the case of the loss of the ship, or to abandon any right which he may have or obtain in the nature of salvage, shall be wholly inoperative.

Seamen not to give up certain rights.

42 No right to wages shall be dependent on the earning of freight; and every seaman and apprentice who would be entitled to demand and recover any wages if the ship in which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to claim and recover the same notwithstanding that freight has not been earned; but in all cases of wreck or loss of the ship, proof that he has not exerted himself to the utmost to save the ship, cargo, and stores, shall bar his claim.

Wages not to be dependent on the earning of freight.

43 If any seaman or apprentice to whom wages are due under the last preceding enactment dies before the same are paid, they shall be paid and applied in the manner hereinafter specified with regard to the wages of seamen who die during a voyage.

In case of death such wages to be paid as after mentioned.

44 In cases where the service of any seaman terminates before the period contemplated in the agreement by reason of the wreck or loss of the ship, and also in cases where such service terminates before such period as aforesaid by reason of his being left on shore at any place abroad, under a certificate of his unfitness or inability to proceed on the voyage, granted under the provisions of the British or Indian Merchant Shipping Acts, such seaman shall be entitled to wages for the time of service prior to such termination as aforesaid, but not for any further period.

Rights to wages in case of termination of service by wreck or illness.

45 No seaman or apprentice shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, whether before or after the time fixed by the agreement for his beginning work; nor, unless the court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

Wages not to accrue during refusal to work or imprisonment.

46 The master or owner of every ship shall pay to every seaman his wages within three days after the cargo has been delivered, or within five days after the seaman's discharge, whichever first happens; and the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one fourth part of the balance due to him; and every master or owner who neglects or refuses to make payment in manner aforesaid without sufficient cause shall pay to the seaman a sum not exceeding the amount of two days' pay for each of the days, not exceeding ten days, during which payment is delayed beyond the respective periods aforesaid; and such sum shall be recoverable as wages.

Period within which wages are to be paid.

Digitized by Google

Mode of recovering Wages.

Seamen may sue for wages in a summary manner.

47 Any seaman or apprentice, or any person duly authorized on his behalf, may sue in the court of requests established for the place at which the service has terminated, or at which the seaman has been discharged, or at which any person upon whom the claim is made is or resides, although the amount in suit may exceed the sum of ten pounds; and every order made by such court in the matter shall be final, and may be enforced by execution against the ship, as well as against the person and property of the owner or master, anything in any former law or Ordinance to the contrary notwithstanding.

Master to have same remedies for wages as seamen.

48 Every master of a ship shall, so far as the case permits, have the same rights, liens, and remedies for the recovery of his wages which by this Ordinance or by any law or custom any seaman, not being a master, has for the recovery of his wages; and if in any proceeding in any court touching the claim of a master to wages any right of set-off or counter claim is set up, it shall be lawful for such court to enter into and adjudicate upon all questions, and to settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and to direct payment of any balance which is found to be due.

Wages and Effects of deceased Seamen.

Master to take charge of effects of deceased seamen.

49 Whenever a seaman or apprentice, on a voyage which is to terminate at any port within this island, dies during such voyage, the master shall take charge of all money, clothes, and effects which he leaves on board; and shall, if he think fit, cause all or any of the said clothes and effects to be sold by auction, and shall enter in the official log book a statement of the amount of money and a description of the effects left by the deceased, and in case of a sale of such effects the sum received for each article sold.

Effects and wages to be delivered and paid to shipping officer, with full accounts.

50 The master shall, within forty-eight hours after his arrival at his port of destination in this island, deliver any such effects as aforesaid, and pay any money which he has taken charge of or received, and also the wages due to deceased, to the shipping officer at such port, and shall give to such shipping officer an account of the effects, money, and wages so to be delivered and paid; and no deductions claimed in such account shall be allowed unless verified, if there is an official log book, by the entry therein hereinbefore required, and also by such other vouchers (if any) as may be reasonably required by the shipping officer to whom the account is rendered.

Penalties for not taking charge of or accounting for such monies and effects.

51 If the master fail to take such charge of the money or other effects of a seaman or apprentice dying during a voyage, or to make such entries in respect thereof, or to make such payment or delivery, or to give such account as hereinbefore respectively directed, he shall be accountable for the money, wages, and effects of the seaman or apprentice to the shipping officer as aforesaid, and shall pay and deliver

Digitized by Google

the same accordingly; and such master shall in addition incur a penalty not exceeding treble the value of the money or effects, or, if such value is not ascertained, not exceeding fifty pounds. All money, wages, and effects of any seaman or apprentice dying during a voyage shall be recoverable in the same courts and by the same modes of proceeding by which seamen are hereby enabled to recover wages due to them.

Wages and property of deceased seaman may be paid without probate.

52 When money or effects left by or due to any deceased seaman or apprentice are paid or delivered to a shipping officer, then, subject to such deductions for expenses incurred in respect of the seaman or apprentice or of his said money and effects as the shipping officer thinks proper to allow, the shipping officer may pay and deliver the said money and effects to any claimants who can prove themselves to the satisfaction of the said shipping officer to be entitled thereto, and the said shipping officer shall be thereby discharged from all further liability in respect of the money and effects so paid and delivered.

Unclaimed wages.

53 In cases of wages or effects of deceased seamen or apprentices received by any shipping officer as aforesaid to which no claim is substantiated within one year from the receipt thereof by such shipping officer, it shall be in the discretion of the shipping officer, subject to the orders of the Governor, if any subsequent claim is made, either to allow or refuse the same. And every shipping officer shall pay into the Treasury of this island all monies arising from the unclaimed wages and effects of deceased seamen to which no claim has been preferred within the period aforesaid, after having given notice of such unclaimed monies being in his possession by advertisement in some public paper at least twice during such period. And such monies shall be brought to account as revenue, if not claimed within two years from the date of such payment into the Treasury.

Provisions, Health, and Accommodation.

Survey of provisions and water on complaint made.

54 Any three or more of the crew of any British ship registered at, trading with, or being at any port or place within the said Island, may complain to any shipping officer or other officer duly appointed in this behalf by the Governor, that the provisions or water for the use of the crew are at any time of bad quality, unfit for use, or deficient in quantity, and such officer may thereupon examine the said provisions or water, or cause them to be examined; and if on examination such provisions or water are found to be of bad quality and unfit for use, or to be deficient in quantity, the person making such examination shall signify the same in writing to the master of the ship; and if such master does not thereupon provide other proper provisions or water in lieu of any so signified to be of a bad quality and unfit for use, or does not procure the requisite quantity of any so signified to be insufficient in quantity, or uses any provisions or water which have

Digitized by Google

been so signified as aforesaid to be of a bad quality and unfit for use, he shall in every such case incur a penalty not exceeding twenty pounds; and upon every such examination as aforesaid the officers making or directing the same shall enter a statement of the result of the examination in the official log, and shall (if such examination be made by a person not a shipping officer) send a report thereof to the shipping officer, and such report, if produced out of the custody of such shipping officer, shall be received in evidence in any legal proceeding.

Forfeiture for frivolous complaint.

55 If the officer to whom any such complaint as last aforesaid is made certifies in such statement as aforesaid that there was no reasonable ground for such complaint, each of the parties so complaining shall be liable to forfeit to the owner out of his wages a sum not exceeding one week's wages.

Allowance for short or bad provisions.

56 In the following cases; (that is to say,)

(1) If during a voyage the allowance of any of the provisions which any seaman has by his agreement stipulated for is reduced (except in accordance with any regulations for reduction by way of punishment contained in the agreement, and also except for any time during which such seaman wilfully and without sufficient cause refuses or neglects to perform his duty, or is lawfully under confinement for misconduct, either on board or on shore):

(2) If it is shown that any of such provisions are or have during the voyage been bad in quality and unfit for use:

The seaman shall receive by way of compensation for such reduction or bad quality, according to the time of its continuance, the following sums to be paid to him in addition to and to be recoverable as wages; (that is to say,)

(1) If his allowance is reduced by any quantity not exceeding one-third of the quantity specified in the agreement, a sum not exceeding 4½*d.* per diem in the case of a European seaman, or 1½*d.* per diem in the case of a Ceylon or Indian seaman:

(2) If his allowance is reduced by more than one-third of such quantity, a sum not exceeding 9*d.* per diem in the case of a European seaman, or 3*d.* per diem in the case of a Ceylon or Indian seaman:

(3) In respect of such bad quality as aforesaid, a sum not exceeding 1*s.* per diem in the case of a European seaman, or 4½*d.* per diem in the case of a Ceylon or Indian seaman.

But if it be shown that any provisions the allowance of which has been reduced could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, such circumstances shall be taken into consideration, and shall be held to modify or refuse compensation, as the justice of the case may require.

Digitized by Google

57 Every master shall keep on board proper weights and measures for the purpose of determining the quantities of the several provisions and articles served out, and shall allow the same to be used at the time of serving out such provisions and articles in the presence of a witness whenever any dispute arises about such quantities ; and in default shall for every offence incur a penalty not exceeding five pounds. **Master to keep weights and measures on board.**

58 Whenever the master or any seaman of any ship registered at any place within the said island shall receive any hurt or injury in the service of the vessel, the expense of providing the necessary surgical and medical advice and attendance, with medicines, and of his subsistence, until he shall be cured or shall be brought back to the port from which he was shipped, or other port agreed upon, shall be defrayed, with the cost of his conveyance to such port, by the owner of the vessel, without any deduction on that account from the wages of such master or seaman ; and if paid by himself, may be recovered as part of his wages; and if paid or allowed out of any monies belonging to the Government of this island, may be recovered from such owner, with full costs of suit, as a debt due to Government. **Expense of medical attendance and subsistence in case of illness how to be defrayed.**

59 The shipping officer at any port in the said island, by himself or his deputy, may enter at any time on board of any ship upon which seamen have been shipped at such port and inspect the provisions and water provided for the use of the crew prescribed by this Ordinance, or by any British or Indian Merchant Shipping Acts. If on inspection the provisions or water are found to be of bad quality and unfit for use, or to be deficient in quantity, the shipping officer shall proceed as provided in section 54 of this Ordinance, and the penalty prescribed in the said section shall be incurred by any default of the master of the ship in respect of such provisions or water. **Shipping officer, &c., may enter on board any ship and inspect provisions, &c.** **Procedure if provisions, &c., are found to be of a bad quality.**

Boats for Sea-going Ships.

60 The following rules shall be observed with respect to boats and life-buoys ; (that is to say,) **Boats for sea-going ships.** **Rules as to boats and life-buoys.**

(1) No decked ship shall proceed to sea from any place in this island unless she is provided, according to her tonnage, with boats duly supplied with all requisites for use, and not being fewer in number nor less in their cubic contents than the boats, the number and cubic contents of which are specified in the table marked C in the schedule hereto for the class to which such ship belongs.

(2) No ships carrying more than twenty-five passengers shall proceed to sea from any place in this island unless, in addition to the boats hereinbefore required, she is also provided with an additional boat furnished with all requisites for use.

(3) No such ship shall proceed to sea unless she is also provided with two life-buoys, and such boats and life-buoys shall be kept so as to be at all times fit and ready for use.

Digitized by Google

Penalty on masters and owners, &c., neglecting to provide boats and life-buoys.

61 In any of the following cases ; (that is to say,)

(1) If any ship hereinbefore required to be provided with boats or life-buoys proceeds to sea without being so provided therewith, or if any of such boats or life-buoys are lost or rendered unfit for service in the course of the voyage through the wilful fault or negligence of the owner or master ; or,

(2) If, in case of any of such boats or life-buoys being accidentally lost or injured in the course of the voyage, the master wilfully neglects to replace or repair the same on the first opportunity ; or,

(3) If such boats and life-buoys are not kept so as to be at all times fit and ready for use ;

then, if the owner appears to be in fault, he shall incur a penalty not exceeding fifty pounds, and if the master appears to be in fault he shall incur a penalty not exceeding ten pounds.

Officers of customs not to clear ships not complying with the above provisions.

62 No officer of customs shall grant a clearance for any ship hereinbefore required to be provided with boats or with life-buoys unless the same is duly so provided ; and if any such ship attempts to go to sea without such clearance any such officer may detain her until she is so provided.

Power of making Complaints.

Seamen to be allowed to go ashore to make complaint to a magistrate.

63 If any seaman or apprentice whilst on board any ship states to the master that he desires to make complaint to a magistrate against the master or any of the crew, the said master shall, if the ship is then at a place where there is a magistrate, so soon as the service of the ship will permit, and if the ship is not then at such a place, so soon after her first arrival at such a place as the service of the ship will permit, allow such seaman to go ashore, or send him ashore in proper custody, so that he may be enabled to make such complaint, and shall in default incur a penalty not exceeding five pounds.

Protection of Seamen from Imposition.

Sale of and charge upon wages to be invalid.

64 No wages due or accruing to any seaman or apprentice shall be subject to attachment from any court ; and every payment of wages to a seaman shall be valid in law, notwithstanding any previous sale or assignment of such wages, or of any incumbrance thereon ; and no assignment or sale of such wages, or of salvage made prior to the accruing thereof, shall bind the party making the same ; and no power of attorney or authority for the receipt of any such wages or salvage shall be irrevocable ; provided that nothing herein contained shall be held to invalidate payments made by virtue of allotments under the 32nd section.

No debt exceeding six shillings recoverable till end of voyage.

65 No debt exceeding in amount 6*s*. incurred by any seaman after he has engaged to serve shall be recoverable until the service agreed for is concluded.

Digitized by Google

66 If any person demands or receives from any seaman or apprentice payment in respect of his board or lodging in the house of such person for a longer period than such seaman or apprentice has actually resided or boarded therein, he shall incur a penalty not exceeding five pounds.

Penalty for overcharges by lodging-house keepers.

67 If any person receives or takes into his possession or under his control any monies, documents, or effects of any seaman or apprentice, and does not return the same or pay the value thereof when required by such seaman or apprentice, subject to such deduction as may be justly due to him from such seaman or apprentice in respect of board or lodging, or otherwise, or absconds therewith, he shall incur a penalty not exceeding five pounds, and any magistrate may, besides inflicting such penalty, direct the amount or value of such monies, documents, or effects, subject to such deduction as aforesaid, to be forthwith paid to such seaman or apprentice.

Penalty for detaining seamen's effects.

68 Every person who, not being in the service of Her Majesty, and not being duly authorized by law for the purpose, goes on board any ship about to arrive at the place of her destination before her actual arrival at the place of her discharge, without the permission of the master, shall for every such offence incur a penalty not exceeding twenty pounds; and the master or person in charge of such ship may take any such person so going on board as aforesaid into custody and deliver him up forthwith to any police officer, to be by him taken before a magistrate to be dealt with according to the provisions of this Ordinance.

Persons not to go on board before the final arrival of ship without permission.

69 If within twenty-four hours after the arrival of any ship at any port in this island any person then being on board such ship solicits any seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of such ship any effects of any seaman, except under his personal direction and with the permission of the master, he shall for every such offence incur a penalty not exceeding five pounds.

Penalty for solicitations by lodging-house keepers.

Discipline.

70 Any master of or any seaman or apprentice belonging to any British ship, who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate loss, destruction, or serious damage of such ship, or tending immediately to endanger the life or limb of any person belonging to or on board of such ship, or who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from immediate loss, destruction, or serious damage, or for preserving any person belonging to or on board of such ship from immediate danger to life or limb, shall for every such offence be liable to imprisonment, with or without hard labour, for a term not exceeding two years.

Penalty for misconduct endangering ship or life or limb.

Digitized by Google

Power to investigate cases of alleged incompetency and misconduct.

71 If the Governor, on the information of any shipping officer, or on any other ground, has reason to believe that any master or mate who has obtained a certificate of competency or service under this Ordinance, is from incompetency or misconduct unfit to discharge his duties, he may direct any tribunal, board, or officer at or near to the place at which it may be convenient for the parties and witnesses to attend to institute an investigation; and thereupon such tribunal, board, or officer shall conduct the investigation, and may summon the master or mate to appear, and shall give him full opportunity of making a defence, either in person or otherwise, and shall, for the purpose of such investigation, have all the powers vested in magistrates of summoning and examining witnesses, and may make such order with respect to the costs of such investigation as they may deem just, and shall on the conclusion of the investigation make a report upon the case to the Governor.

Governor may cancel or suspend certificates in certain cases.

72 The Governor may suspend or cancel the certificate (whether of competency or service) granted under this Ordinance to any master or mate in the following cases; (that is to say,)

(1) If upon any investigation made in pursuance of the last preceding section it is reported that such master or mate is incompetent, or guilty of any gross act of misconduct, drunkenness, or tyranny, or that the loss or abandonment of or serious damage to any ship, or loss of life, has been caused by his wrongful act or default:

(2) If he is superseded by the order of any admiralty court, or of any duly constituted naval court:

(3) If he is shown to have been convicted of any offence.

And every master or mate whose certificate is cancelled or suspended shall deliver it to the shipping officer, or to such other person as the Governor shall direct, and in default shall for each offence incur a penalty not exceeding fifty pounds; and the Governor may at any subsequent time grant to any person whose certificate has been cancelled a new certificate of the same or of any lower grade.

Offences of seamen and apprentices, and their punishments.

73 Whenever any seaman who has been lawfully engaged, or any apprentice to the sea service, commits any of the following offences, he shall be liable to be punished as follows; (that is to say,)

Desertion.

(1) For desertion he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour, and also to forfeit all or any part of the clothes and effects he leaves on board, and all or any part of the wages or emoluments which he has then earned; and also, if such desertion takes place at any port or place not within the said island, at the discretion of the court, to forfeit all or any part of the wages or emoluments he may earn in any other ship in which he may be

Digitized by Google

employed until his next return to any port or place within the said island, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him.

(2) For neglecting or refusing, without reasonable cause, to join his ship, or to proceed to sea in his ship, or for absence without leave at any time within twenty-four hours of the ship's sailing from any port, either at the commencement or during the progress of any voyage, or for absence at any time without leave and without sufficient reason from his ship or from his duty, not amounting to desertion, or not treated as such by the master, he shall be liable to imprisonment for any period not exceeding ten weeks, with or without hard labour, and also, at the discretion of the court, to forfeit out of his wages a sum not exceeding the amount of two days' pay, and in addition for every twenty-four hours of absence either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute. Neglecting or refusing to join or to proceed to sea, absence within twenty-four hours before sailing, and absence without leave.

(3) For quitting the ship without leave after her arrival at her port of delivery, and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay. Quitting without leave before ship is secured.

(4) For wilful disobedience to any lawful command he shall be liable to imprisonment for any period not exceeding four weeks, with or without hard labour, and also, at the discretion of the court, to forfeit out of his wages a sum not exceeding two days' pay. Act of disobedience.

(5) For continued wilful disobedience to lawful commands, or continued wilful neglect of duty, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour, and also, at the discretion of the court, to forfeit for every twenty-four hours' continuance of such disobedience or neglect either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute. Continued disobedience.

(6) For assaulting any master or mate he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour, and to such forfeiture of wages as the court may direct. Assault on officers.

(7) For combining with any other or others of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour, and to such forfeiture of wages as the court may direct. Combining to disobey.

Digitized by Google

Wilful damage and embezzlement.

(8) For wilfully damaging the ship, or embezzling or wilfully damaging any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal in amount to the loss thereby sustained, and also, at the discretion of the court, to imprisonment for any period not exceeding twelve weeks, with or without hard labour.

Act of smuggling causing loss to owner.

(9) For any act of smuggling of which he is convicted, and whereby loss or damage is occasioned to the master or owner, he shall be liable to pay to such master or owner such a sum as is sufficient to reimburse the master or owner for such loss or damage; and the whole or a proportionate part of his wages may be retained in satisfaction or on account of such liability, without prejudice to any further remedy.

Entry of offences to be made in official log, and to be read over or a copy given to the offender; and his reply, if any, to be also entered.

74 Upon the commission of any of the offences enumerated in the last preceding section an entry thereof shall be made in the official log book, and shall be signed by the master, and also by the mate or one of the crew; and the offender, if still in the ship, shall, before the next subsequent arrival of the ship at any port, or if she is at the time in port, before her departure therefrom, either be furnished with a copy of such entry, or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit; and a statement that a copy of the said entry has been so furnished, or that the same has been so read over as aforesaid, and the reply (if any) made by the offender, shall likewise be entered and signed in manner aforesaid; and in any subsequent legal proceeding the entries hereinbefore required shall, if practicable, be produced or proved, and in default of such production or proof the court hearing the case may, at its discretion, refuse to receive evidence of the offence.

Seamen whom masters of ships are compelled to convey, and persons going in ships without leave, to be subject to penalties for breach of discipline.

75 Every seafaring person whom the master of any ship is under the authority of this Ordinance or any law compelled to take on board and convey, and every person who goes to sea in any ship without the consent of the master or owner or other person entitled to give such consent, shall, so long as he remains in such ship, be subject to the same laws and regulations for preserving discipline, and to the same penalties and punishments for offences constituting or tending to a breach of discipline, to which he would be subject if he were a member of the crew and had signed the agreement.

Master or owner may apprehend deserters without warrant.

76 Whenever, either at the commencement or during the progress of any voyage, any seaman or apprentice neglects or refuses to join, or deserts from, or refuses to proceed to sea in any ship in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master or any mate, or the owner, ship's husband, or consignee, may, with or without the assistance of police officers, who are hereby directed to give the same if required, apprehend him without first procuring a warrant; and may thereupon in any case, and shall, in case he so requires and it is practicable, convey him before some court capable of

Digitized by Google

taking cognizance of the matter, to be dealt with according to law, and may for the purpose of conveying him before such court detain him in custody for a period not exceeding twenty-four hours, or such shorter time as may be necessary, or may, if he does not so require, or if there is no such court at or near the place, at once convey him on board; and if any such apprehension appears to the court before which the case is brought to have been made on improper or on insufficient grounds, the master, mate, owner, ship's husband, or consignee, who makes the same or causes the same to be made, shall incur a penalty not exceeding £20; and such penalty, if inflicted, shall be a bar to any action for false imprisonment in respect of such apprehension.

Deserters may be sent on board in lieu of being imprisoned.

77 Whenever any seaman or apprentice is brought before any court on the ground of his having neglected or refused to join or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, such court may, if the master or the owner or his agent so requires, instead of committing the offender to prison, cause him to be conveyed on board for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship, or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the offence to be paid by the offender, and, if necessary, to be deducted from any wages which he has then earned, or which by virtue of his then existing engagement he may afterwards earn.

Seamen imprisoned for desertion or breach of discipline may be sent on board before termination of sentence.

78 If any seaman or apprentice is imprisoned on the ground of his having neglected or refused to join or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, or of his having committed any other breach of discipline, and if during such imprisonment and before his engagement is at an end his services are required on board his ship, any magistrate may, at the request of the master or of the owner or his agent, cause such seaman or apprentice to be conveyed on board his said ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship or to the owner or his agent, to be by them so conveyed, notwithstanding that the termination of the period for which he was sentenced to imprisonment has not arrived.

Entries and certificates of desertion abroad to be copied, sent home, and admitted in evidence.

79 In all cases of desertion from any ship registered at a port or place within the said island while such ship is at any place out of the said island, the master shall produce the entry of such desertion in the official log book to the person or persons required by this Ordinance or by the British or Indian Merchant Shipping Acts to endorse on the agreement a certificate of such desertion; and such person or persons shall thereupon make and certify a copy of such entry and also a copy of the said certificate of desertion; the master

Digitized by Google

shall forthwith transmit such copies to the shipping master at the port where such seaman was engaged, who shall, if required, cause the same to be produced in any legal proceeding; and such copies, if purporting to be so made and certified as aforesaid, shall in any legal proceeding relating to such desertion be received as evidence of the entries therein appearing.

Facilities for proving desertion so far as concerns forfeiture of wages.

80 Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion, it shall be sufficient for the party insisting on the forfeiture to show that such seaman or apprentice was duly engaged in or that he belonged to the ship from which he is alleged to have deserted, and that he quitted such ship before the completion of the voyage or engagement, or if such voyage was to terminate at any port or place within the said island, and the ship has not returned, that he is absent from her, and that an entry of the desertion has been duly made in the official log-book, and thereupon the desertion shall, so far as relates to any forfeiture of wages or emoluments under the provisions hereinbefore contained, be deemed to be proved, unless the seaman or apprentice can produce a proper certificate of discharge, or can otherwise show to the satisfaction of the court that he had sufficient reasons for leaving his ship.

Costs of procuring imprisonment may, to the extent of three pounds, be deducted from wages.

81 Whenever in any proceeding relating to seamen's wages it is shown that any seaman or apprentice has, in the course of the voyage, been convicted of any offence by any competent tribunal and rightfully punished therefor by imprisonment or otherwise, the court hearing the case may direct a part of the wages due to such seaman, not exceeding three pounds, to be applied in reimbursing any costs properly incurred by the master in procuring such conviction and punishment.

Amount of forfeiture how to be ascertained when seamen contract for the voyage.

82 Whenever any seaman contracts for wages by the voyage, or by the run, or by the share, and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Ordinance shall be taken to be an amount bearing the same proportion to the whole wages or share as the period hereinbefore mentioned in fixing the amount of such forfeiture (as the case may be) bears to the whole time spent in the voyage; and if the whole time spent in the voyage does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

Application of forfeitures.

83 All clothes, effects, wages, and emoluments which under the provisions hereinbefore contained are forfeited for desertion shall be applied in the first instance in or towards the reimbursement of the expenses occasioned by such desertion to the master or owner of the ship from which the desertion has taken place, and may, if earned subsequently to the desertion, be recovered by such master, or by the owner or his agent, in the same manner as the deserter might have recovered the same if they had not been

Digitized by Google

forfeited ; and in any legal proceeding relating to such wages the court may order the same to be paid accordingly ; and, subject to such reimbursement, the same shall be paid into the Treasury of this island, and carried to the account of Government; and in all other cases of forfeiture of wages under the provisions hereinbefore contained the forfeiture shall, in the absence of any specific directions to the contrary, be for the benefit of the master or owner by whom the wages are payable.

Questions of forfeitures may be decided in suits for wages.

84 Any question concerning the forfeiture of or deductions from the wages of any seaman or apprentice may be determined in any proceeding lawfully instituted with respect to such wages, notwithstanding that the offence in respect of which such question arises, though hereby made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

Penalty for false statement as to last ship or name.

85 If any seaman, on or before being engaged, wilfully and fraudulently makes a false statement of the name of his last ship or last alleged ship, or wilfully and fraudulently makes a false statement of his own name, he shall incur a penalty not exceeding five pounds, and such penalty may be deducted from any wages he may earn by virtue of such engagement as aforesaid, and shall, subject to reimbursement of the loss and expenses, if any, occasioned by any previous desertion, be paid and applied in the same manner as other penalties payable under this Ordinance.

Fines to be deducted from wages and paid to shipping officer.

86 Whenever any seaman commits an act of misconduct for which his agreement imposes a fine, and which it is intended to punish by enforcing such fine, an entry thereof shall be made in the official log book, and a copy of such entry shall be furnished or the same shall be read over to the offender, and an entry of such reading over and of the reply (if any) made by the offender shall be made, in the manner and subject to the conditions hereinbefore specified with respect to the offences against discipline specified in and punishable under this Ordinance; and such fine shall be deducted and paid over as follows ; (that is to say,) if the offender is discharged at any port or place within the said island, and the offence, and such entries in respect thereof as aforesaid, are proved, in the case of a foreign-going ship to the satisfaction of the shipping officer before whom the offender is discharged, and in the case of a coastwise ship to the satisfaction of the shipping officer at or nearest to the place at which the crew is discharged, the master or owner shall deduct such fine from the wages of the offender and pay the same over to such shipping officer ; and if before the final discharge of the crew within the said island any such offender as aforesaid enters into any of Her Majesty's ships or is discharged at any place not in the said island, and the offence and such entries as aforesaid are proved to the satisfaction of the officer in command of the ship into which he so enters, or of the consular officer, officer of customs, or other person by whose sanction he is so discharged, the fine shall thereupon be deducted as aforesaid, and an entry of such

Digitized by Google

deduction shall then be made in the official log book (if any) and signed by such officer or other person; and on the return of the ship within the said island the master or owner shall pay over such fine, in the case of foreign-going ships to the shipping officer before whom the crew is discharged, and in the case of coastwise ships to the shipping officer at or nearest to the place at which the crew is discharged; and if any master or owner neglects or refuses to pay over any such fine in manner aforesaid, he shall for each such offence incur a penalty not exceeding six times the amount of the fine retained by him: Provided that no act of misconduct for which any such fine as aforesaid has been inflicted and paid shall be otherwise punished under the provisions of this Ordinance.

Penalty for enticing to desert and harbouring deserters.

87 Every person who by any means whatever persuades or attempts to persuade any seaman or apprentice to neglect or refuse to join or to proceed to sea in or to desert from his ship, or otherwise to absent himself from his duty, shall for each such offence in respect of each such seaman or apprentice incur a penalty not exceeding five pounds; and every person who wilfully harbours or secretes any seaman or apprentice who has deserted from his ship, or who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe such seaman or apprentice to have so done, shall for every such seaman or apprentice so harboured or secreted incur a penalty not exceeding five pounds.

Penalty for obtaining passage surreptitiously.

88 Any person who secretes himself and goes to sea in any ship without the consent of either the owner, consignee, or master, or of a mate, or of any person in charge of such ship, or of any other person entitled to give such consent, shall incur a penalty not exceeding five pounds, or be liable to imprisonment, with or without hard labour, for any period not exceeeding four weeks.

On change of masters documents hereby required to be handed over to successor.

89 If during the progress of a voyage the master of any ship registered at any port or place within the said island is superseded, or for any other reason quits the ship, and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and to the crew thereof which are in his custody, and shall in default incur a penalty not exceeding one hundred pounds; and such successor shall, immediately on assuming the command of the ship, enter in the official log a list of the documents so delivered to him.

Official Logs.

Official logs to be kept in forms sanctioned by the Governor.

90 The shipping officer may require an official log book of every ship registered at any port of this island, not being a coastwise ship, to be kept in a form sanctioned by the Governor; and such official log may, at the discretion of the master or owner, either be kept distinct from the ordinary ship's log or united therewith, so that in all cases all the blanks in the official log be duly filled up.

Digitized by Google

91 Every entry in every official log shall be made as soon as possible after the occurrence to which it relates, and if not made on the same day as the occurrence to which it relates, shall be made and dated so as to show the date of the occurrence and of the entry respecting it; and in no case shall any entry therein in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge be made more than twenty-four hours after such arrival. Entries to be made in due time.

92 Every master of a ship for which an official log book is hereby required shall make or cause to be made therein entries of the following matters; (that is to say,) Entries required in official log.

(1) Every legal conviction of any member of his crew, and the punishment inflicted. Convictions.

(2) Every offence committed by any member of his crew for which it is intended to prosecute, or to enforce a forfeiture, or to exact a fine, together with such statement concerning the reading over such entry and concerning the reply (if any) made to the charge, as hereinbefore required. Offences.

(3) Every offence for which punishment is inflicted on board, and the punishment inflicted. Punishments.

(4) A statement of the conduct, character, and qualifications of each of his crew, or a statement that he declines to give an opinion on such particulars. Conduct, &c., of crew.

(5) Every case of illness or injury happening to any member of the crew, with the nature thereof, and the medical treatment adopted. Illness and injuries.

(6) Every case of death happening on board, and of the cause thereof. Deaths.

(7) Every birth happening on board, with the sex of the infant and the names of the parents. Births.

(8) Every marriage taking place on board, with the names and ages of the parties. Marriages.

(9) The name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner, and cause thereof. Quitting ships.

(10) The amount of wages due to any seaman who enters Her Majesty's service during the voyage. Wages of men entering navy.

(11) The wages due to any seaman or apprentice who dies during the voyage, and the gross amount of all deductions to be made therefrom. Wages of deceased seamen.

(12) The sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold and of the sum received for it. Sale of deceased men's effects.

(13) Every collision with any other ship, and the circumstances under which the same occurred. Collisions.

93 The entries hereby required to be made in official log books shall be signed as follows; (that is to say,) every such entry shall be signed by the master and by the mate or some Entries how to be signed.

Digitized by Google

other of the crew, and every entry of illness, injury, or death shall be also signed by the surgeon or medical practitioner on board (if any); and every entry of wages due to, or of the sale of the effects of, any seaman or apprentice who dies shall be signed by the master and by the mate and some other member of the crew, and every entry of wages due to any seaman who enters Her Majesty's service shall be signed by the master and by the seaman or by the officer authorized to receive the seaman into such service.

Penalties in respect of official logs.

94 The following offences in respect of official log books shall be punishable as hereinafter mentioned; (that is to say,)

(1) If in any case an official log book is not kept in the manner hereby required, or if any entry hereby directed to be made in any such log book is not made at the time and in the manner hereby directed, the master shall for each such offence incur the specific penalty herein mentioned in respect thereof, or, where there is no such specific penalty, a penalty not exceeding five pounds:

(2) Every person who makes or procures to be made or assists in making any entry in an official log book, in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge within the said island, more than twenty-four hours after such arrival, shall for each such offence incur a penalty not exceeding five pounds:

(3) Every person who wilfully destroys or mutilates or renders illegible any entry in any official log book, or who wilfully makes or procures to be made or assists in making any false or fraudulent entry or omission in any such log book, shall for each such offence be liable to imprisonment, with or without hard labour, for a term not exceeding one year.

Entries in official logs to be received in evidence.

95 All entries made in any official log book as hereinbefore directed shall be *primâ facie* evidence in any proceeding in any court of justice, subject to all just exceptions.

Depositions to be received in evidence when witness cannot be produced.

96 Whenever, in the course of any legal proceedings instituted at any port or place within the said island before any judge, commissioner, or magistrate, or before any person authorized by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject-matter of such proceeding, then, upon due proof that such witness cannot be found at or that he has departed from such port or place, any deposition that such witness may have previously made on oath in relation to the same subject-matter before any justice or magistrate in Her Majesty's dominions (including the said island), or any British consular officer elsewhere, shall, if authenticated by the signature of the justice, magistrate, or consular officer, be

Digitized by Google

admissible in evidence: Provided that if the proceeding is criminal such deposition shall not be admissible unless it was made in the presence of the person accused, and the fact that it was so made is certified by the justice, magistrate, or consular officer. It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and in any criminal proceeding such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

Ordinance not to extend to ships of war.

97 Nothing in this Ordinance shall extend to any ship belonging to or in the service of Her Majesty, or to any ship of war belonging to any foreign prince or state.

Commencement.

98 This Ordinance shall come into operation on the first day of January, One thousand Eight hundred and Sixty-five.

SCHEDULE.

Table A.

Fees to be charged for Matters transacted at Shipping Offices.

1. Engagement or discharge of crews:

	£	s.	d.
In ships under 100 tons	0	6	0
From 100 to 200 tons	0	14	0
200 to 300 tons	1	0	0
300 to 400 tons	1	5	0
400 to 500 tons	1	10	0
500 to 600 tons	1	15	0
600 to 700 tons	2	0	0
700 to 800 tons	2	5	0
800 to 900 tons	2	10	0
900 to 1,000 tons	2	15	0
Above 1,000 tons	3	0	0

and so on for ships of larger tonnage, adding for every 100 tons above 1,000, 5*s*.

2. Engagement or discharge of seamen separately, 2*s*. for each seaman.

3. Endorsement of change of master on registry, 4*s*.

Table B.

Sums to be deducted from Wages by way of Partial Repayment of Fees in Table A.

1. In respect of engagements and discharges of crews, upon each engagement and each discharge:

	£	s.	d.
From wages of any mate, purser, engineer, surgeon, carpenter, or steward ...	0	1	6
From wages of all others, except apprentices ...	0	1	0

2. In respect of engagements and discharges of seamen, separately, upon each engagement and each discharge 0 1 0

Digitized by Google

Table C.

Number and Dimensions of Boats with which Sea-going Ships are to be provided.

Registered Tonnage. Sailing Ships.	Dimensions of Boats to be carried. Boats. Number.	Length.	Breadth.	Depth.	Total Number of Boats to be carried.
		ft.	ft. in.	ft. in.	
Under 100	1	14	5 0	2 2	1
100 to 200	2	14	5 0	2 2	2
200 to 400	1	14	5 0	2 2	2
	1	16	5 6	2 3	
400 to 600	1	16	5 6	2 3	3
	1	22	5 6	2 5	
	1	22	6 6	3 3	
600 to 800	1	16	5 4	2 3	4
	2	24	5 6	2 6	
	1	25	7 0	3 6	
800 and upwards ...	1	18	5 6	2 3	4
	2	24	5 6	2 6	
	1	26	8 0	3 8	

7th October, 1863.

No. 3 of 1884.

An Ordinance to amend the Ordinance No. 7 of 1863, intituled "An Ordinance relating to Merchant Shipping."

Preamble.

WHEREAS doubts have arisen whether a person who has served as master of a ship belonging to a foreign State or Power prior to the Ordinance No. 7 of 1863 is not entitled under sub-section 1 of section 12 of the said Ordinance No. 7 of 1863 to a certificate of service as master of a British foreign-going ship: And whereas it is expedient to remove such doubts and at the same time to bring the law of this colony into unison with the law of the United Kingdom upon this point: It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Short title.

1 This Ordinance may be cited for all purposes as "The Merchant Shipping Amendment Ordinance, 1884."

Repeal.

2 Section 12 of the principal Ordinance, No. 7 of 1863, is hereby repealed.

Certificates of service to masters and mates who have served as such prior to January first, 1851.

3 Certificates of service differing in form from certificates of competency shall be granted as follows; that is to say,

(1) Every person who, before the first of January, one thousand eight hundred and fifty-one, served as master in the British merchant service, or who has attained or attains the rank of lieutenant, master, passed mate, or second master, or any higher rank, in the service of Her Majesty or of the late East India Company, shall be entitled to a certificate of service as master.

Digitized by Google

(2) Every person who, before the first of January, one thousand eight hundred and fifty-one, served as mate in the British merchant service shall be entitled to a certificate of service as mate.

And each of such certificates of service shall contain particulars of the name, place, and time of birth and of the length and nature of the previous service of the person to whom the same is delivered, and the examiners shall deliver such certificates of service to the various persons so respectively entitled thereto upon their proving themselves to have obtained such rank or to have served as aforesaid, and upon their giving a full and satisfactory account of the particulars aforesaid.

4 This Ordinance and the Ordinance No. 7 of 1863, saving the clause hereby repealed, shall be read as one Ordinance. Ordinance to be construed as one with Ordinance No. 7 of 1863.

4th February, 1884.

No. 10 of 1863.

An Ordinance to provide for the Partition or Sale of Lands held in common.

(*As amended by No. 10 of 1897.*)

(*See No. 10 of 1897.*)

WHEREAS it is expedient to provide for the partition or sale of lands held in common: It is enacted as follows: Preamble.

1 For the purposes of this Ordinance the word "will" shall be held to include a codicil and any other testamentary disposition, and the word "representative" to mean the party legally entitled to appear and act for and on behalf of another as his guardian, tutor, curator, or attorney, as the case may be. Interpretation clause.

2 When any landed property shall belong in common to two or more owners, it is and shall be competent to one or more of such owners to compel a partition of the said property, or, should such partition be impossible or inexpedient on account of the number or poverty of the owners, the nature, extent, or value of such property, or from other causes, to apply for a sale thereof, and in either case to file in any court of competent jurisdiction a libel, particularly describing the property and stating the extent of his or their share and interest therein, the names and residences of all the co-owners and mortgagees, and the extent of their respective shares or interests, and also the improvements, if any, which have been made on the property, and by which of the owners, so far as the said matters or things, or any of them, shall be known to him or them, and praying for a partition of the common estate amongst the several owners, or a sale thereof, as the case may be. Any one of two or more owners may compel partition or sale.

3 On such application being filed, the court shall issue its summons directed to the parties named by the plaintiff, calling upon them to appear and show cause why a partition or sale of the common property should not be decreed as prayed; and such summons shall be served upon the defendants or such of them as can be found, or, if they Summons. Service of summons.

Digitized by Google

cannot be found, upon the person or persons in the actual possession of such property; or, if there be no person in possession, in such manner as the court shall direct.

Proceeding on default of appearing.

4 If the defendant served as aforesaid shall make default in appearance as directed by the summons, the court shall fix a day to hear evidence in support of the application of the plaintiffs, and on that day, or any other day to which the court may adjourn the hearing, shall hear evidence in support of the title of the plaintiffs and the extent of their shares or interests, as also the title of the defendants and the extent of their respective shares or interests in so far as may be practicable by any *ex parte* proceeding, and shall, if the plaintiff's title be proved, give judgment by default, decreeing partition or sale as to the court shall seem fit. If the defendants or any of them shall appear and dispute the title of the plaintiffs, or shall claim larger shares or interests than the plaintiffs have stated to belong to them, or shall dispute any other material allegation in the libel, the court shall in the same cause proceed to examine the titles of all the parties interested therein, and the extent of their several shares or interests, and to try and determine any other material question in dispute between the parties, and to decree a partition or sale according to the application of the parties, or as to the court shall seem fit: Provided, however, that it shall be competent to the court to decree the sale of the common property, though such sale be not prayed for by the parties in the original libel, if in any suit for a partition it shall appear to such court that on account of the number or poverty of the owners, the nature, extent, or value of the land, or other causes, a partition would be impossible or inexpedient.

On appearance.

Proviso as to sale.

Commission for partition.

5 When a decree of partition has been given, it shall be lawful for the court, on the application of any party to the suit, and on his depositing, if required so to do, such sum as the court shall consider sufficient to defray the expenses of such partition, to issue a commission addressed to such person or persons as shall be agreed upon by all the parties to such suit and as shall be willing to execute the same; or if the parties cannot agree upon any such person, then to some fit person to be named by the court who shall be willing to execute the same, authorizing and requiring him or them to make partition of the land, assigning to each owner his proper share, and otherwise conforming to such special directions as to the partition which the court may give; and the person or persons to whom such commission shall be addressed shall, with all practicable speed, proceed in the presence of all parties concerned (if they will appear) to make partition thereof according to the ascertained proportions of the several owners, and with reference to the value of any improvements made thereon, and the party by whom they may have been made, and in conformity with any special directions as to the partition contained in such decree, and shall make due return thereof, accompanying such return with a schedule, and, if

Return to commission.

Digitized by Google

need be, a survey, showing the name, situation, extent, and estimated value of the land, the names of the owners, the nature and extent of their respective shares and interests, and generally the mode in which the said person or persons propose that such partition shall be made: Provided that the commissioners shall, thirty days at least before making such partition, affix on some conspicuous part of the land a written notice of the day on which they propose to make the same, and give further notice thereof by beat of tom-tom in the village or place where such land is situated, and in such other manner as shall appear best calculated for giving the greatest publicity thereto.

Provision as to notice.

Proceeding on receipt of return.

6 On the receipt of the return of such commission the court shall fix a day, of which notice shall be issued to all the parties, and which said notice shall be served in the same way as the original summons, for considering the return; and on that day or such other day as the court shall then appoint, the court after summarily hearing the parties, and, if need be, making such further reference as the court shall deem necessary, shall either confirm or modify the partition proposed by the commissioners, and enter final judgment accordingly in the cause.

Partition of share only of applicant.

7 If it should be made to appear to the satisfaction of the court, in the case of an application for partition or sale, that a partition of the share of the applicant can be made without interfering with the shares of the other owners of the property, and that such other owners are willing to possess their shares in common, it shall then be lawful for the court to abstain from ordering a partition of the entire land, further than shall be necessary to ascertain and define the share in severalty of the particular applicant.

Commission for sale.

8 When a decree for the sale of the common property has been given, it shall be lawful for the court, on the application of any party to the suit, and on his depositing, if required so to do, in court such sum as the court shall consider sufficient to defray the expenses of the sale, and of any survey which may be required for the purposes of such sale, to issue a commission (directed as in the case of a partition) for the sale of such property; and such commissioners shall thereupon proceed to make a just valuation of the property, and to give notice of not less than six weeks, in such manner as the court shall direct and as shall appear best calculated for giving the greatest publicity thereto, that on the day mentioned in such notice the whole of such property will be put up to sale, first among the owners thereof, at the price for which the same shall have been valued, and if not purchased by some one of them that it shall be put up and sold to the highest bidder; and on the day named in such notice the commissioners shall proceed to sell the whole of such property, by first putting up the same for sale under such conditions as the court shall direct, and subject to any mortgage or other charges or incumbrances which may be on the same, amongst the said owners, at the upset price for which

Digitized by Google

the property has been valued; and if none of the owners shall then become the purchaser thereof and comply with the conditions under which the said property shall be sold, the commissioners shall forthwith put the same up for sale, subject to any such mortgage, charge, or incumbrance, by public auction to the highest bidder; and such commissioners shall make their return to such commission to the said court, showing therein the name and place of abode of the purchaser and the amount for which the said property was sold, and shall file therewith a survey of such property in any case in which a survey shall have been directed by the court; and the purchaser shall pay into court the amount of the purchase money, agreeably to the conditions of sale, to be paid over to the persons entitled thereto, under the order of the court, in the proportion of their respective shares; and the certificate under the hand of the judge of such court that the said property has been sold under the order of the said court, and setting forth the name of the purchaser thereof, and that the purchase money has been duly paid into court by him, shall be evidence in any court of the purchaser's title, without any deed of transfer from the former owners: Provided that in case the premises shall be purchased by one or more of the co-proprietors, the share due to him or them shall be deducted from the amount to be paid into court as aforesaid.

Return to commission.

Certificate of court to be sufficient title.

Proviso.

9 The decree for partition or sale given as hereinbefore provided shall be good and conclusive against all persons whomsoever, whatever right or title they have or claim to have in the said property, although all persons concerned are not named in any of the said proceedings, nor the title of the owners nor of any of them truly set forth, and shall be good and sufficient evidence of such partition and sale and of the titles of the parties to such shares or interests as have been thereby awarded in severalty: Provided that nothing herein contained shall affect the right of any party prejudiced by such partition or sale to recover damages from the parties by whose act, whether of commission or omission, such damages had accrued.

Decree of court to be conclusive evidence of partition or sale and title.

Proviso as to damages.

10 The court by which any such decree of partition or sale shall be given shall and may award to such commissioners such amount as it shall consider a reasonable remuneration for their labour, and for the expenses incurred by them in the survey of the property (if any such has been made) and in and about the making of such partition or sale, which amount shall be paid to them out of the money deposited in court as aforesaid; and the person or persons making a deposit shall be entitled to recover from each of the co-proprietors, by proceeding in the same cause, a share of the costs of such partition or sale proportionate to the share of such person in the said property.

Remuneration to commissioners and expenses of partition or sale.

11 No dilatory exception shall be admitted in any suit for partition or sale.

No dilatory exception allowed.

Digitized by Google

12 Nothing in this Ordinance contained shall affect the right of any mortgagee of the land which is the subject of the partition or sale: Provided that if at the time any partition or sale shall be made an undivided share only of the land, and not the whole thereof, shall be subject to mortgage, the right of the mortgagee shall be limited to the share in severalty allotted to his mortgagor by and under the same conditions, covenants, and reservations as shall be stipulated in the mortgage bond, so far as the same shall apply to a share in severalty; and the owner of the share in severalty so subject to mortgage shall, without a new deed of mortgage, warrant and make good to the mortgagee the said several part after such partition as he was bound to do before such partition.

Where property is subject to mortgage.

13 If at the time any partition shall be made under any of the foregoing provisions of this Ordinance the property shall be held under any lease, the tenants thereof, or of any part thereof, before such partition was made, shall be tenants of such part set out severally to the respective owners thereof, by and under the same conditions, rents, covenants, and reservations as they held by and under before such partition; and the owners of the several parts so divided and allotted as aforesaid shall without any new deed of lease warrant and make good to the said tenant or tenants the said several parts, severally, after such partition, as they were bound to do before such partition.

Where property is subject to lease.

14 For the purposes of this Ordinance, every person having a permanent right of property in any of the trees growing upon any land in this island, distinct from the ownership of the soil, and every person being the owner of any land in this island, apart from the ownership of the trees thereon, shall be deemed and taken to have an undivided interest in such land; and the owner of the soil, as well as the person having such right in the trees growing thereon, shall and may compel a partition or sale in the manner provided by this Ordinance: Provided, however, that in all such cases either party shall have the right of demanding a sale instead of a partition of the said property; and the owner of the soil shall also have a right of pre-emption in and to the said property, upon a just appraisement by the commissioner or commissioners of the value of the planter's right and interest in the said property, and of any buildings or improvements made by him thereon.

Persons having permanent right of property to growing trees distinct from the soil, or owners of soil apart from the trees thereon, to be deemed to have an undivided interest.

15 Nothing in this Ordinance contained shall extend or be construed to extend to give to any co-proprietor of any land in this island the right to compel a partition or sale thereof, if there shall be any valid or subsisting deed of partnership binding upon any such co-proprietor for the cultivation of such property, or the raising of any crops or produce thereon, for the purpose of selling such crops or produce, or for carrying on any trade, manufacture, or occupation having relation to or connected with the joint possession of such property, any of the terms or conditions of which deed would be broken or avoided by the partition

Proviso where a deed of partnership subsists as respects the property.

Digitized by Google

or sale of such property, unless such deed shall expressly reserve to the parties thereto, or to any of them, or to their or any of their heirs, executors, or administrators, the right of compelling a partition or sale of such property; and any partition, sale, or conveyance of such property effected without the consent of the parties to such deed, contrary to the true intent and meaning of this section, shall be void.

Proceeding where undivided shares are seized in execution.

16 When any undivided share or interest in any land shall be seized under any writ of execution or distress warrant, the fiscal shall only put up for sale the share or interest belonging to the debtor, unless the other co-proprietors shall notify in writing to such fiscal their wish that the whole of the land should be sold, in which case the fiscal shall cause a just valuation to be made thereof by two appraisers, one of whom shall be named by the debtor and the other by the said co-proprietors, or in the event of their failing to do so within fifteen days from the date of such notification by the fiscal, and in case of a difference between such appraisers in such valuation, the fiscal shall appoint a third person as umpire, whose valuation shall be final; and the fiscal shall insert in the notice of sale that on the day of sale the whole of such property will be put up for sale, first among the co-proprietors thereof, at the price for which the same shall have been valued, and if not purchased by some one or more of them, that it shall then be put up and sold to the highest bidder; and on the day named in such notice the said fiscal shall proceed to sell the whole of such property, by first putting up the same for sale upon the usual conditions, and subject to any mortgage or other charges or incumbrances which may be on the same, amongst the said co-proprietors at the upset price for which the said property shall have been valued, and if none of the said co-proprietors shall then become the purchaser thereof, and comply with the conditions under which the said property shall be sold, the fiscal shall forthwith put the same up for sale, subject to any such mortgage, charge, or other incumbrance thereon, and sell the same by public auction to the highest bidder; and in case the premises shall be purchased by one or more of the co-proprietors the fiscal shall recover from him or them the amount of the purchase and the expenses attending the appraisement and sale, less the shares of such co-proprietors; but if such premises are purchased by any person not being one of the co-proprietors, the said fiscal shall bring the whole amount into the court out of which the writ of execution was issued, to be paid over to the parties entitled thereto under an order of the said court, in the proportion of their respective shares; and the sum awarded to the debtor as his share, or such part thereof as shall be sufficient to satisfy the exigency of the said writ, shall be paid over under an order of such court to the creditor, and the surplus if any, shall be paid to the said debtor: Provided, however, that in case any dispute should arise as to what is the amount due to the debtor, it shall be lawful for the creditor, as soon as the money has been brought into court by the fiscal, to

Digitized by Google

apply to the court for such portion thereof, not exceeding the amount of his writ, as he shall have reason to believe to belong to his debtor, and the court may make an order for the payment thereof to him on his giving security to the satisfaction of the court for the repayment of any part thereof which may at any time within two years thereafter be found not to have belonged to such debtor.

17 Whenever any legal proceedings shall have been instituted for obtaining a partition or sale of any property as aforesaid, it shall not be lawful for any of the owners to alienate or hypothecate his undivided share or interest therein, unless and until the court before which the same were instituted shall, by its decree in the matter, have refused to grant the application for such partition or sale, as the case may be; and any such alienation or hypothecation shall be void.

No owner may alienate or hypothecate his share after commencement of legal proceeding.

18 All landed property situated in this colony which shall belong to two or more persons jointly, whether the same shall have come to them by grant, purchase, descent, or otherwise, is and shall be deemed and taken to be held by them in common, and upon the decease of any such persons the said property so jointly possessed shall not remain or belong to the survivor, but all the right, share, and interest of the person so dying in and to the property so jointly possessed as aforesaid shall form part of his estate; and the person or persons to whom the same shall by him be devised or bequeathed, or to whom it shall devolve, shall thereupon become and be co-proprietors with the survivor in the said property, in the proportion and according to the share of such deceased person therein, unless the instrument under which the said property is jointly held and possessed, or any agreement mutually entered into between them, shall expressly provide that the survivor, upon such decease, shall become entitled to the whole estate.

No survivorship as to property held in undivided shares unless expressly stipulated for.

19 All decisions and orders of any court made under the authority of this Ordinance shall be subject to an appeal to the Supreme Court, and every such appeal shall be brought or prosecuted in such manner and shall be subject to such regulations as now exist or shall hereafter be made by law.

Appeals.

20 This Ordinance shall come into operation on the first day of January, One thousand Eight hundred and Sixty-four.

Commencement.

11th November, 1863.

No. 10 of 1897.

An Ordinance to exempt Partition Actions from Stamp Duty.

WHEREAS it is expedient to exempt from stamp duty proceedings for the partition or sale of land, and to amend the Ordinances No. 10 of 1863 and No. 3 of 1890 in certain particulars: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Preamble.

1 This Ordinance shall be read as one with "The Stamp Ordinance, 1890," herein referred to as "the principal Ordinance," and shall come into operation on the passing thereof.

To be read with Ordinance No. 3 of 1890.

Digitized by Google

Repeal of duty on deeds of partition.

2 The duty imposed on deeds of partition by part I. of schedule B of the principal Ordinance is hereby repealed.

Part II. of schedule amended.

3 Part II. of schedule B of the principal Ordinance is hereby amended by inserting therein under the head "Exemptions" and after the word "thereto" the following words:

All pleadings and other documents in actions or proceedings for the partition or sale of land instituted under the provisions of the Ordinance No. 10 of 1863, intituled "An Ordinance to provide for the Partition or Sale of Lands held in common;"

and by inserting therein in the last proviso, under the head "In the Police Courts," after the words "municipal officer" the words "or local board officer."

Recovery of double stamp fees in actions wrongly instituted under Ordinance No. 10 of 1863.

4 If it should appear to the court before which any action or proceeding for the partition or sale of land has been instituted that such action or proceeding is one which should not have been instituted under the provisions of the Ordinance No. 10 of 1863, or that it was instituted in order to deprive any person not named in the plaintiff's application to such court of his interest in the said land, or in order improperly to take advantage of the exemption from stamp duty by this Ordinance created, such court shall, in disposing of such action or proceeding, order the plaintiff to pay double the amount of stamp duty which would have been payable throughout such action or proceeding by both plaintiff and defendant had this Ordinance not been passed, and shall enforce payment of the same by writ of execution against the property and person of the plaintiff.

Remuneration to commissioners limited to one per cent.

5 The remuneration to be awarded to the commissioners under section 10 of the Ordinance No. 10 of 1863 shall not exceed one per cent. of the value of the property, unless the court is of opinion that the commissioners are entitled to a larger remuneration, in which case the court shall, in awarding such larger remuneration, record in writing its reasons therefor.

Taxation of costs in partition cases.

6 All bills of costs, whether between party and party or between proctor and client, in any action or proceeding for partition or sale in the court of requests shall be taxed by the chief clerk of such court according to the rates specified in schedule C of the Ordinance No. 12 of 1895 for money cases which have not been contested, and in the district court, where the value of the property is under three thousand rupees, shall be taxed by the secretary of the court according to the rates specified in class I. of schedule 3 of the Civil Procedure Code, anything in the Civil Procedure Code, the Ordinance No. 12 of 1895, or any other Ordinance to the contrary notwithstanding.

7th December, 1897.

No. 5 of 1864.

An Ordinance to regulate the Temporal Affairs of Churches not provided for in the Ordinance No. 12 of 1846.

(*As amended by No. 3 of 1883.*)

Preamble.

WHEREAS the Ordinance No. 12 of 1846 makes provision for regulating the temporal affairs of certain Episcopal churches, and it is expedient that like provision should be made for and in respect of churches other than those referred to in that enactment: It is enacted as follows:

Repeal of Ordinance No. 11 of 1863.

1 The Ordinance No. 11 of 1863, entitled "An Ordinance to regulate the Temporal Affairs of Churches not provided for in the Ordinance No. 12 of 1846," is hereby repealed.

Digitized by Google

2 For the purposes of this Ordinance, except when otherwise provided, the word "church" shall be construed to mean any place set apart for the purposes of Christian worship other than those referred to in the Ordinance No. 12 of 1846; "the trustees" shall mean the trustees elected or appointed under the provisions of this Ordinance; and "the minister" shall mean the person usually officiating in such church and conducting the public worship therein. **Interpretation clause.**

3 It shall be lawful for the minister or ministers of any church already erected, or for any five or more persons who shall have subscribed for the erection thereof, or who attend it for purposes of worship, or for the building committee or persons in charge of the building of any church proposed to be erected, or whilst the same is in course of erection, to fix a place and a day for holding a general meeting in manner hereinafter appointed, giving notice thereof in three successive *Government Gazettes:* Provided that if the church belong to or be vested in any person, society, or corporation, no proceedings can be taken to bring the same within the operation of this Ordinance without the consent, previously obtained, of such person, society, or corporation; any proceeding taken without such consent shall be null and void. **Notice of election of trustees.** **Proviso.**

4 Every meeting so convened shall be held at the time and place appointed, and at every such meeting it shall be lawful for the subscribers to any church not completed and used for public worship at the time such meeting is held, or for the seatholders or members of the congregation of the church, if the same shall then have been completed and used, to determine whether such church is to be brought within the provisions of this Ordinance, and, if this be decided in the affirmative, to elect three trustees: Provided that no subscriber or seatholder or member of the congregation shall be entitled to give more than one vote, or to give any vote except in person, and that no person shall be entitled to vote who shall not be twenty-one years of age; and the person or persons who shall have convened such meeting shall record the names of the voters, and (if the meeting proceed to the election of trustees) of the persons for whom their votes shall have been given, and shall at the close of the meeting declare the determination of the voters and (if any election shall have taken place) the names of the three persons elected to be trustees by the greatest number of votes, and shall grant to such persons certificates under their hands of such election. **Mode of holding meeting.** **Mode of voting.**

5 In case of the death, incapacity, resignation, or departure of any trustee, or in case any such trustee shall become a lunatic, or otherwise disqualified to act, the remaining trustees shall fix a place and a day for holding an election of a new trustee, and shall give notice thereof in the three successive *Government Gazettes* published next immediately preceding such day; and the election shall be held by the said trustees according to the forms hereinbefore prescribed for election of trustees. **Vacancy of trustees.**

Digitized by Google

Trustee resigning to render account.

6 No trustee shall be permitted to resign his office until he shall have duly accounted, to the satisfaction of his co-trustees, for all sums of money at any time received by him in his trust.

Annual election of trustees.

First Monday in December.

7 No trustee shall, unless re-elected, continue in office beyond the thirty-first day of December next after his election or appointment. A general meeting shall be held on the first Monday in the month of December in every year, for the election of three new trustees for the year commencing on the first of January next ensuing; and such election shall be held according to the forms hereinbefore prescribed for the election of trustees.

Proceeding where no meeting is fixed.

8 If the trustees shall for the period of one month neglect to fix a place and a day for holding an election of a trustee in the room of one who may have vacated his office, then any six of the subscribers or seatholders, as the case may be, may fix the place and day, and give notice of the same in manner hereinbefore appointed; and the election shall be held before the minister or ministers of the church. If no election shall be held within two months from the time above prescribed, it shall be lawful for the minister or ministers, or should the minister or ministers fail to do so, or disagree, for the trustees of the preceding year, to appoint one or more persons as trustees, and every such trustee so appointed shall continue in office until the thirty-first day of December next ensuing.

Chairman of trustees.

Quorum.

9 The minister shall, whenever present at any meeting of the trustees, be ex-officio chairman of such meeting, and if more ministers than one usually officiate at such church, each shall be chairman in turn. When no minister is present the trustees shall elect their own chairman. All matters before the trustees, in cases where they differ, shall be decided by a majority of their votes, each trustee having one vote on each matter or case, and in the event of an equality of votes the chairman shall have the casting vote. Three trustees, or two trustees with the ex-officio chairman, shall form a quorum.

Trustees may make by-laws.

10 The trustees shall have power from time to time to make by-laws (not inconsistent with this Ordinance) for their general guidance, which laws shall be equally binding on their successors until repealed or altered.

Meetings of trustees.

11 The meetings of the trustees shall take place on days agreed to by a majority, for the transaction of ordinary business, and if the meeting be extraordinary or special seven days' notice thereof, and of its object, shall be given in writing to each of the trustees and to the minister, and two trustees may at any time convene a special meeting.

Property vested in trustees.

12 The real estate and property in the church and in the minister's dwelling or burial ground attached to the church, and their appurtenances respectively, and in all lands, monies, and chattels belonging thereto, shall be vested in the trustees, for the purposes of their trust.

Digitized by Google

13 The trustees may make and execute and compel the performance and execution of all contracts, agreements, matters, and things, and may commence and maintain all suits necessary to their trust. All contracts and agreements shall and may be entered into and enforced, and all suits be brought by them in the name of the trustees, specifying the name of the church without specifying the trustees; and no suit shall abate by the death or vacancy in the office of any trustee. All suits the cause of which shall accrue to any person from any contract, agreement, or other matter made, executed, done, or performed by the trustees, as such, shall be brought against the trustees under the name and title aforesaid. **Trustees to make agreements.**

14 The trustees may from time to time set out and apportion the sittings in the church, and fix a rent for such sittings, and make agreements with any person desirous to engage the same. **Trustees to appoint sittings.**

15 Where seats are apportioned, every subscriber to the church *bonâ fide* resident within twenty miles of the same shall be entitled to engage the number of sittings therein which he may require for the use of himself and family, and the priority of choice amongst the subscribers shall be determined by the trustees. **Subscribers entitled to sittings.**

16 The trustees shall collect, or shall cause to be collected, the rents due for sittings, and all subscriptions and donations to the church, and all other revenues arising out of any land or other property belonging to the church, and all fees and payments for vaults and tombstones; and shall appoint, suspend, and remove all officers and servants of the church, and manage the temporalities of the church, and provide the articles necessary for Divine worship therein; and shall fix the salaries or wages of the officers and servants, and shall pay the said salaries or wages, as well as other expenses incident to the church or its property, from the rents and fees and other funds arising out of the property of the church. **Trustees to collect monies.**

17 The trustees may, with the previous consent of the ministers, and with their approval of any proposed epitaph or inscription, permit any monument to be erected or placed in a convenient part of the church, or of the enclosed ground round about it, or of the burial ground belonging to it, or may permit vaults to be dug and made in the burial ground, upon payment to the trustees, for such permission, of such charges as the trustees shall appoint, provided that the same shall in no case exceed the charges set forth in the schedule hereunto annexed. Any person erecting or placing any monument in the church or the enclosed ground round about it, or digging or making any vault in the burial ground, by and with the permission aforesaid, shall have a right to maintain and keep up such monument or vault, according to the terms of the permission, to and for the sole and separate use of the said person and his heirs for ever: Provided always that it shall not be lawful to bury any body within the church or within the enclosed ground round about it. **Erection of monument, &c.** **No burial.**

Digitized by Google

Appointment of auditor.

18 One person, not being a trustee, shall be elected at the general meeting for the election of trustees to be an auditor of the accounts of the trustees for the year succeeding his appointment.

Trustees to keep account.

19 The trustees shall keep a written account of all monies received and paid by them, which account the auditor may inspect at all reasonable times, and the account, together with any report of the auditor thereon, shall be open to the inspection of the seatholders or members of the congregation at all reasonable times.

Trustees may accept lands.

20 The trustees may accept and take from private persons, or from the Crown, gifts or grants of land for the site of a minister's dwelling, with a garden and other appurtenances, or for a burial ground, or any lands for the maintenance of the church or of the ministers; and the land so given or granted shall be for ever vested in the trustees, in trust for the purpose for which it is given or granted.

21 Repealed by No. 3 of 1883, itself repealed by No. 15 of 1898.

Ordinance No. 13 of 1845 saved.

22 Nothing in this Ordinance contained shall be construed to affect the Ordinance No. 13 of 1845, intituled "An Ordinance to regulate the Temporal Affairs of the Presbyterian Church in Kandy, in the Island of Ceylon," but the same shall be of full force, anything in this Ordinance to the contrary notwithstanding.

SCHEDULE.

Erecting a tablet or monument in the church, not less than five nor more than twenty pounds.

Erecting a monument in the ground adjoining the church, not being a burial ground, any sum not less than three pounds.

Burial in a brick or stone grave in the burial ground, one pound.

Head-stone or foot-stone (each), ten shillings.

A stone covering over such grave, one pound.

A vault, for each person it is capable of containing, one pound ten shillings; and on every occasion of its being opened, one pound.

A raised tomb over a vault, for each person it is capable of containing, one pound ten shillings.

19th October, 1864.

No. 12 of 1864.

An Ordinance to provide for the production in Evidence of Copies, instead of Originals, of Public Documents.

Preamble

WHEREAS much inconvenience is experienced from the practice, which is now common, of summoning public officers to produce in evidence books and documents in their custody: It is enacted as follows:

Copies must be produced in evidence instead of originals.

1 Whenever it shall be necessary for any person to adduce proof in any court of justice, or before any person now or hereafter having, by law or consent of parties, authority to hear, receive, and examine evidence of the contents of any

Digitized by Google

book or document in any public office or in charge of any public officer, he shall only produce a copy or extract therefrom, signed and certified by the officer to whose custody the original is intrusted, and such copy or extract shall be admissible in evidence in such court, or before such person, in place of the original: Provided that it shall be lawful for the judge, or person presiding in such court, or such other person as aforesaid, to require (upon his being satisfied that in any particular cause or inquiry such production is necessary for the ends of justice) that the original of such book or document should be produced in addition to the copy as aforesaid.

2 Public officers to whose custody the originals of such books or documents are intrusted are hereby required to furnish certified copies or extracts therefrom on payment, by the party applying therefor, of a fee of ninepence for every folio of 120 words, or of two shillings for each copy of a title deed plan on tracing cloth, and six shillings for each copy on drawing paper, such fees to be appropriated in such manner as the Governor shall from time to time appoint. **Charges for such copies.**

3 This Ordinance shall come into operation from the date of the passing thereof. **Commencement.**

16th November, 1864.

No. 13 of 1864.

An Ordinance for regulating the Sale of Bread and preventing its Adulteration.

WHEREAS it is expedient to make provisions respecting the sale of bread, and to prevent the adulteration thereof: It is enacted as follows: **Preamble.**

1 It shall not be lawful for any baker or vendor of bread to sell any bread, other than French or fancy bread, and rolls, except by weight, any law or usage to the contrary notwithstanding. **Bread to be sold by weight.**

2 All bread, except French or fancy bread, and rolls, shall be stamped with figures denoting one or other of the following weights, to wit, ¼ lb., ½ lb., 1 lb., 2 lb., and 4 lb., and which said weights shall respectively be of the avoirdupois weight of sixteen ounces to the pound, and the several gradations of the same for any quantity less than a pound; and if any baker or vendor of bread shall sell any bread, except as aforesaid, which shall not weigh so much as the figures stamped thereon indicate, he shall be liable to a fine not exceeding two pounds for each offence. **Weight to be stamped on bread.** **Of the standard weight of this colony.**

3 Every baker or vendor of bread shall cause to be fixed in some conspicuous part of his shop a beam and scales with standard weights or other sufficient balance, in order that all bread, except as aforesaid, there sold, may from time to time be weighed in the presence of the purchasers thereof, if they shall so require; and if any baker or vendor of bread shall **Means of weighing to be provided.**

Digitized by Google

neglect to fix such beams and scales or other sufficient balance in manner aforesaid, or to provide and keep for use a proper beam and scales and proper weights or balance, or shall use any false weight, or shall not weigh bread sold in his shop when required so to do by a purchaser, he shall be liable to a fine not exceeding five pounds sterling for each offence.

Adulteration of bread an offence.

4 Any baker or other person or persons who shall make bread for sale, or any person in the employ of any such baker or other person, who shall, on any account or under any colour or pretence whatsoever, at any time in the making of bread for sale use any mixture or ingredient whatsoever which shall, after due examination, be adjudged by any magistrate to have the effect of adulterating such bread, or any damaged grain, flour, or meal, shall be liable for the first offence to a fine not exceeding five pounds, and to a fine of ten pounds for every subsequent offence.

Adulterating corn, meal, or flour, &c., an offence.

5 If any person shall put into any corn, meal, or flour which shall be offered for sale, either before or at the time of grinding, dressing, bolting, or manufacturing the same, or at any other time, any ingredient or mixture whatsoever, not being the real and genuine produce of the corn or grain; or if any person shall knowingly sell, or offer or expose for sale, either separately or mixed, any meal or flour of one sort of corn or grain as the meal or flour of any other sort of corn or grain, or any ingredient whatsoever mixed with the meal or flour so offered or exposed for sale, then and in every such case every person so offending shall be liable to a fine not exceeding twenty pounds.

Magistrates may search bakers', &c., premises, and seize adulterated flour, &c.

6 It shall be lawful for any justice of the peace within the limit of his jurisdiction, and also for any police or peace officer, or other person authorized by the warrant of any such justice of the peace (and which warrant any such justice is hereby empowered to grant), at seasonable times in the day-time to enter into any house, mill, shop, stall, or other premises of or belonging to any miller, mealman, or baker, or other person who shall grind grain or dress or bolt meal or flour or make bread for reward or sale, or who shall have corn or meal for sale, and to weigh the bread kept there for sale, and to search or examine whether any mixture or ingredient not the genuine produce of the grain such meal or flour shall import or ought to be, shall have been mixed with or put into any meal or flour in the possession of such miller, mealman, or baker, whereby the purity of any meal or flour is or shall be in anywise adulterated, or for damaged grain, flour, or meal; and if, on any such search, it shall appear that any bread is not of the weight which it purports to be, or is not stamped as required by this Ordinance, or that any meal, flour, dough, or bread so found shall have been damaged or so adulterated by the person in whose possession it shall then be, or any mixture or ingredients shall be found which shall seem to have been deposited there in order to be used in the adulteration of meal, flour, or bread,

Digitized by Google

then and in every such case it shall be lawful for every such justice, police or peace officer, or other person authorized as aforesaid, within the limits of their respective jurisdictions, to seize and take any meal, flour, or bread which shall be found in any such search and deemed to have been damaged or adulterated, and all ingredients and mixtures which shall be found and deemed to have been used or intended to be used in or for any such adulteration as aforesaid, to the police magistrate having jurisdiction in the district where such seizure took place, and such magistrate is hereby authorized and required to dispose of the same as he in his discretion shall from time to time think proper.

7 Every person in whose house, mill, shop, stall, or premises, any ingredient or mixture shall be found which shall, after due examination, be adjudged by any magistrate to have been deposited there for the purpose of being used in adulterating meal, flour, or bread, or any damaged grain, flour, or meal, shall be liable to a fine not exceeding two pounds for the first offence, five pounds for the second offence, and ten pounds for every subsequent offence. Persons in whose premises ingredients for adulteration found, punishable.

8 Magistrates before whom persons are convicted for offences under the 3rd, 4th, and 5th sections of this Ordinance are hereby required to report the same to the Governor; and it shall be lawful for the Governor, with the advice and consent of the Executive Council, to cause such offenders' names, places of abode, and offences to be published in the towns or places where the offences were committed, in such manner as to secure the greatest publicity thereto; and it shall be lawful for magistrates who shall report such proceedings as aforesaid, upon presentation of certificates of the costs of such publication, signed by the Treasurer of the island, to issue warrants for the distress and sale of so much of the property of the offenders as shall be sufficient for the repayment to the Treasurer of such costs, and of the costs of the distress and sale. Publication of convictions.

9 This Ordinance shall come into operation on the first day of January, One thousand Eight hundred and Sixty-five. Commencement.

16th November, 1864.

No. 4 of 1865.

An Ordinance for the better regulation of the Loan Board.

WHEREAS it is expedient to make a change in the constitution and management of the Loan Board, and to make certain unclaimed balances available for public purposes: It is enacted as follows: Preamble.

1 This Ordinance may be cited for all purposes as "The Loan Board Ordinance, 1865." Short title.

2 This Ordinance shall come into operation on a day to be named in the Proclamation notifying the confirmation thereof by Her Majesty. Commencement.

Digitized by Google

Loan Board and Officers.

Governor to appoint commissioners of Loan Board.

3 It shall be lawful for the Governor, subject to the pleasure of Her Majesty, her heirs and successors, from time to time as occasion may require, to appoint three or more fit and proper persons to be the commissioners of the Loan Board, and to nominate one of them to be the Chief Commissioner; and they shall hold office during pleasure, and exercise the duties and powers hereby conferred on them.

Governor to appoint secretary, clerks, &c.

4 It shall be lawful for the Governor from time to time to appoint such secretary, clerks, and other ministerial officers as to him may appear necessary, to assist the commissioners in the execution of the duties and powers hereby conferred on them.

Treasurer.

5 The Treasurer of the colony shall be the treasurer of the Loan Board, provided, however, that nothing herein contained shall prevent the Treasurer being appointed a commissioner in addition.

Salaries.

6 The Governor may from time to time, with the advice and consent of the Executive Council, direct to be paid out of the funds of the Colonial Treasury, to such commissioners, secretary, clerks, and officers as aforesaid, such salaries or remuneration as to him shall appear reasonable.

Meetings of Loan Board.

Meetings when to be held.

Proviso.

7 Meetings of the commissioners shall be held for the despatch of business upon such day and days in every month as shall be fixed by any general rule made by such commissioners as hereinafter provided: Provided that it shall be lawful for the Chief Commissioner, at his own instance, or when requested thereto by any other commissioner, to convene a special meeting of the board, and two days' notice of the day appointed by him for the same shall be given by the secretary to each commissioner.

Chairman.

8 The Chief Commissioner shall be the chairman of such meeting. In his absence it shall be competent to the commissioners to elect one of their own body.

Majority to decide.

Quorum.

Casting vote.

9 All acts whatsoever authorized or required by virtue of this Ordinance to be done by the Loan Board may and shall be done and decided by the majority of the commissioners, such number not being less than two. When the votes of the commissioners present in regard to any question shall be equally divided, the chairman, besides his vote as a commissioner, shall have a casting vote.

Rules and Regulations.

10 It shall be lawful for the commissioners to make such rules and regulations as they may deem expedient for any of the following purposes:

(1) For regulating the meetings and proceedings of the commissioners.

(2) For determining the securities upon which loans are to be made, and the charges payable by borrowers.

Digitized by Google

(3) For determining the rates of interest on loans and deposits.

(4) For determining the distribution of interest realized upon the loans.

(5) For regulating the books and forms of accounts to be kept and rendered.

(6) For providing for every other matter not herein specially provided for, but necessary for the due regulation of the board and the funds thereof.

Provided that such rules and regulations be not repugnant to or inconsistent with any of the provisions of this Ordinance, and that copies thereof with all convenient speed be transmitted to the Governor for the approval, amendment, or disallowance thereof by the Governor and Executive Council; and the said rules so approved or amended shall thereupon become as legal, valid, and effectual as if the same had been inserted herein. **Proviso.**

General Provisions.

Control of Loan Board, &c., to be vested in commissioners.

11 As soon as commissioners have been appointed for the purposes of this Ordinance, the management of the Loan Board and all control and superintendence over or regarding the investment, management, and administration of any of the funds heretofore and now administered by the Loan Board (to wit, the funds administered in the time of the Dutch Government by the Weeskamer and Boedelkamer, the funds formed of the deposits made by the suitors of the Supreme Court of Judicature, the funds formed of the deposits made by suitors in the different district courts in this island, or by or on account of trustees, tutors, curators, guardians, executors, administrators, receivers, minors, insane or interdicted persons, deceased persons, insolvents' and trust estates, and all funds of whatever description which have come to the custody of the Loan Board, or are at present administered by it) shall be vested in and be exercised by the said commissioners subject to the limitations herein prescribed, and the Judges of the Supreme Court shall be relieved from any share in the general superintendence and control over the said board, and from the necessity of affixing their signatures to the accounts and other documents thereof: Provided that nothing herein contained shall be construed to limit or affect the jurisdiction of the said Supreme Court in any question that may come before it for judgment in due course of law, affecting the title to or the recovery of any money or estate, or part of such funds as aforesaid, or affecting the application thereof to the use of any suitor or other person thereto entitled. **Proviso.**

Commissioners to be trustees.

12 All monies and estate forming at present the funds hereinbefore mentioned, and which are invested by or in the name of the registrar of the Supreme Court, or lying in deposit subject to the disposal of the Loan Board, or which are vested in, due to, or in any way within the power or under the control of either of them, shall be deemed to be

Digitized by Google

vested in the said commissioners of the Loan Board hereunder appointed in trust for the use of the persons who shall be entitled to the same, and for the uses, ends, and purposes further in this Ordinance provided and declared.

Commissioners to invest suitors' fund, subject to certain rules.

13 It shall be lawful for the said commissioners from time to time to lend out at interest all such monies hereby vested in them as trustees as aforesaid, or which may have been or may hereafter be transmitted by or from or on account of the several courts and judges of this island to the Public Treasury, subject to such rules and regulations regarding investment, security, change of securities, interest, conditions, and administration, as they may from time to time make as herein provided.

Commissioners to sue and be sued.

14 The commissioners hereby appointed shall be entitled to sue upon all bonds, obligations, mortgages, and securities, and all contracts whatever heretofore granted to or made by the Loan Board or the registrar of the Supreme Court on behalf of the Loan Board, and to recover the same and to appear in all suits or proceedings already commenced or taken in which the Loan Board or the said registrar is interested, for and on behalf of the Loan Board; and all bonds, obligations, mortgages, and all contracts whatsoever to, by, or with the commissioners hereunder appointed, and all suits and actions by or against the said commissioners, shall be made to, by, or with them, and shall be instituted by or against them, under the name of "The Commissioners of the Loan Board," without specifying the names of the individual commissioners or any of them; and no action shall abate by reason of the death, removal, resignation, incapacity, or going out of office of any of them; and the service of all process in any suit or action against the said commissioners shall be made on the secretary.

Parate execution.

15 It shall be lawful for the commissioners of the Loan Board to sue out from any court having jurisdiction over the person or effects of any person who now owes or may hereafter owe money to the Loan Board, and who shall not repay the principal amount at the period by his obligation stipulated, in one month after demand made in writing by or in the name of the said commissioners, or shall make default in the payment of the stipulated interest, due on the same for more than one month, process of parate execution against the body and effects of such person; and every such court is hereby authorized and directed on the application of the said commissioners, verified by affidavit of any commissioner swearing to the existence of the obligation and default, forthwith, and without further notice or delay, to issue such process.

Payment of one-third of interest to Government.

16 The payments which have heretofore been made to the Government of Ceylon of one-third of all interest accruing from the investments made by the Loan Board, for the purpose of contributing towards the expenses of the establishment of the Board, shall be continued to be made by the commissioners appointed in pursuance of the provisions of this Ordinance.

Digitized by Google

17 At the end of every month the government agent of each province in the island shall transmit to the Treasury at Colombo the balance, if any, which at the end of every such month shall be in his hands to the credit of each and every district court within his province, or if such balance be in favour of such government agent in account with any of the district courts within his province, he shall then draw upon the said Treasury for the amount of such balance; and all suitors and other persons entitled to the monies so transmitted to the Treasury shall be entitled to the same advantages and interest, subject to the same conditions as the monies now under the administration of the Loan Board are entitled and subject to, or to which they shall become entitled and subject by any rules and regulations to be made as herein provided.

Agents to transmit monies to the Treasurer.

18 Whereas certain monies heretofore administered by the Loan Board have been in deposit for very long periods of time, and no claims have been preferred to them, and the retention of them in the books and accounts of the Board is productive of much inconvenience, it is enacted as follows:

Disposal of monies long unclaimed.

(1) If any money now or which may hereafter come under the administration of the Loan Board shall have been in deposit to the credit of any person or estate, and shall not have been claimed by any person having a just and lawful right thereto, for the period of one-third of a century from the date of such deposit, or having been claimed such claim shall have been abandoned, withdrawn, or not prosecuted within one year from the date of claim, or if such claim has been set aside, then and in every such case every account with such person or estate shall be closed, and all such money shall, owing to the lapse of such period, become the property of the Crown, and shall be paid over by the commissioners of the Loan Board to the Treasurer, to be carried to the account of the public revenue, but to be appropriated for such purposes cognate to or connected with the administration of justice as the Governor and Executive Council shall from time to time determine.

If unclaimed for more than a third part of a century, money forfeited to the Crown.

(2) If any money now or which may hereafter come under the administration of the Loan Board shall have been in deposit for any period less than one-third of a century to the credit of any person or estate, and shall not have been claimed by any person having just and lawful right thereto for ten years and upwards, or having been claimed such claim shall have been abandoned, withdrawn, or not prosecuted within one year from the date of claim, or if such claim has been set aside, then and in every such case (after the expiration of ten years and upwards aforesaid) every account with such person or estate shall be closed; and all such money

If unclaimed for more than ten years and upwards, but less than a third part of a century, monies to be paid to the general revenue, which is made liable for the payment of such claims.

Digitized by Google

shall, owing to the lapse of time, be paid over by the commissioners of the Loan Board to the Treasurer, to be carried to the account of the public revenue, but to be appropriated for such purposes cognate to or connected with the administration of justice as the Governor and Executive Council shall from time to time determine: Provided, however, that if any person shall within one-third of a century from the date of such deposit establish a claim to any portion of the said last-mentioned monies to the satisfaction of a competent court of justice, such claim, as well the principal money as the interest due thereon, shall be paid by the Government out of the general revenue, which is hereby declared liable to meet all such claims.

Interest never to exceed principal.

19 No person entitled to receive interest on any money in deposit in the Loan Board shall be entitled to receive as interest a larger amount than the principal, in case, at the time of payment, the interest unpaid and in arrear shall exceed the principal.

Nothing herein to affect liability of board to account to courts or to execute its orders.

20 Nothing herein contained shall be deemed to affect the liability of the Loan Board to account to the different courts for the monies placed in deposit by the orders of such courts, or to conform to and comply with such orders as it has heretofore done.

18th October, 1865.

No. 6 of 1865.

An Ordinance to declare the Duties of Masters Attendant, and to provide for the better preservation of the Ports of the Island, and for the better regulation of the Shipping therein.

(*As amended by No. 6 of 1896 and No. 4 of 1899.*)

(*See No. 6 of 1880, No. 6 of 1896, No. 4 of 1899, and No. 4 of 1900.*)

Preamble.

WHEREAS it is expedient to declare the duties in certain respects of masters attendant, and to provide for the better preservation of the ports of the island, and for the better regulation of the shipping therein: It is enacted as follows:

Preliminary.

Short title.

1 This Ordinance may be cited for all purposes as "The Masters Attendant's Ordinance, 1865."

Commencement.

2 This Ordinance shall come into operation from the date of the passing thereof.

Interpretation.

3 The following words and expressions in this Ordinance shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction:

The expression "master attendant" shall include his deputies and assistants.

Digitized by Google

The word "port" shall include all harbours, roadsteads, and places of anchorage in the island.

The word "vessel" shall include anything made for the conveyance by water of human beings or of property.

The word "master," when used in relation to any vessel, shall mean and include any person having for the time being the charge or command or control of such vessel.

The word "boat" shall include canoes and cattamarans.

Ordinances repealed.

4 The Ordinance No. 2 of 1847, entitled "An Ordinance to declare the duties in certain respects of the Masters Attendant of the Ports of Colombo, Galle, and Trincomalee, and to provide in certain respects for the better preservation of the said Ports, and for the better regulation of the Shipping therein," and the Ordinance No. 10 of 1853, entitled "To provide for the registration and licensing of Passenger Boats at Point de Galle," are hereby repealed; except as to liabilities which shall have been incurred, acts which shall have been done, and all proceedings or matters which shall have taken place before this Ordinance comes into operation.

Governor to declare ports to be brought under the Ordinance, and to define their limits.

5 The Governor may from time to time, with the advice and consent of the Executive Council, declare by Proclamation the ports which are to be brought within the operation of this Ordinance, and may define the limits of such ports respectively.

Port rules.

6 The Governor may from time to time, with the advice and consent of the Executive Council, frame and establish such port rules, not inconsistent with this Ordinance, as he may think necessary for any of the following purposes; namely:

(1) For regulating the time at which, and the manner in which, vessels shall enter into or go out of any port subject to this Ordinance.

(2) For regulating the berths and stations to be occupied by vessels in any such port.

(3) For striking the yards and topmasts, and for rigging in the jib and driver booms, of vessels in any such port, whenever it may be proper so to do.

(4) For the removal or proper hanging or placing of anchors, spars, and other things in or attached to vessels in any such port.

(5) For regulating vessels whilst taking in or discharging ballast or cargo, or any particular kind of cargo, in any such port, and the stations to be occupied by vessels whilst so engaged.

(6) For keeping free passages of such width as may be deemed necessary within any such port, and along or near to the piers, jetties, landing places, wharfs, quays, docks, moorings, and other works in or adjoining to the same, and for marking out the spaces so to be kept free.

Digitized by Google

Duties of Masters Attendant, &c.

(7) For regulating the anchoring, fastening, mooring, and unmooring of vessels in any such port.

(8) For regulating the mooring and warping of all vessels within any such port, and the use of warps therein.

(9) For regulating the use of the mooring buoys, chain, and other moorings in any such port.

(10) For fixing from time to time the charges to be made for boat hire which may be demanded by boats licensed to convey goods and passengers in the said ports; the rates and charges of pilotage on vessels into and out of any of the said ports, from or to a distance of one league out at sea; or for removing or re-mooring any vessel, and the rates to be paid for the use of Government moorings, whenever the same shall be available, and the charges for work connected with mooring of the said vessels.

(11) For regulating boats plying for hire in any such port.

[*§ 2, 6 of 1896*]

(*11a*) *For regulating bumboats, and all boats used by traders, hawkers, and others for the conveyance of goods for sale in any such port.*

(12) For regulating the use of fires and lights within any such port.

(13) For regulating and enforcing the use of signals by vessels at night in any such port.

(14) For regulating all other matters necessary to provide in every respect for the preservation of the ports and the better regulation of the shipping therein, and not specially provided for by this Ordinance.

Proviso.

Provided that such port rules shall be promulgated by Proclamation in the *Government Gazette* at least one month before the same shall take effect, and a copy and translations thereof in the vernacular languages of the district shall be fixed in some conspicuous place in the office of the master attendant of every port to which such order shall relate, and in the custom house, if any, of every such port.

Masters Attendant.

Master attendant may give directions for certain specific purposes.

7 The master attendant of any port subject to this Ordinance may, in respect of any vessel within such port, give directions for carrying into effect any port rule in force within such port.

Penalties for disobedience to orders of master attendant.

8 If any person shall wilfully and without lawful excuse refuse or neglect to obey any lawful direction of the master attendant after notice thereof shall have been given to him, such person shall for every such offence be liable to a fine not exceeding five pounds, and a further sum not exceeding five pounds for every day on which he shall wilfully continue to disobey such direction; and in case of such refusal or neglect it shall be lawful for the master attendant to do, or to cause to be done, all such acts as shall be reasonable or necessary for the purpose of carrying such direction into execution, and to hire and employ proper persons for that

Digitized by Google

purpose; and all reasonable expenses which shall be incurred in doing such acts shall be paid and borne by the persons so offending. Any written notice of a direction given under this Ordinance, which shall be left for the master of any vessel with any person employed on board thereof, or which shall be affixed on a conspicuous place on board of such vessel, shall for the purposes of this Ordinance be deemed to have been given to the master thereof.

Master attendant to appoint place for anchorage.

9 Whenever any vessel shall arrive within any port of this island brought within the operation of this Ordinance, the master attendant of such port is hereby authorized and required to appoint the place where the same shall cast anchor, and to direct the master or person in charge of such vessel to anchor it at such place, or himself to cause it to be anchored there; and he shall at all times have full power and authority to board any such vessel, and to remove or cause the removal of the same from one place of mooring or anchorage to another, when he shall consider such removal expedient; and as often as the master or person in charge of any such vessel shall be desirous of moving the same from one place of mooring or anchorage to another, such master or person in charge is hereby required to notify to the master attendant such his desire, and the master attendant shall, unless he see good and sufficient reason to the contrary, authorize the removal thereof by such master or person in charge, or shall himself remove it or cause its removal; and whenever the master attendant shall consider it necessary for any of the purposes of this Ordinance to go on board of any such vessel, he shall be entitled to demand and receive a reasonable amount for boat hire. If any master or person in charge of any such vessel or any other person shall neglect or disobey any lawful direction of the master attendant, or shall offer any resistance or impediment to him or to any person acting under his orders, in the execution of any duty or authority herein imposed upon or vested in him, or shall change the mooring or anchoring of any such vessel without the authority of the master attendant, every such master or person shall be guilty of an offence, and be liable to any fine not exceeding twenty pounds.

Penalty on disobedience to or obstruction of lawful orders of masters attendant.

Master attendant may go on board any vessel in discharge of his duty.

10 The master attendant may, whenever he shall suspect that any offence has been or is about to be committed in any vessel contrary to this Ordinance, or whenever it is necessary for him so to do in the discharge of any duty imposed upon him by this Ordinance, go on board any vessel within the limits of any port. If the master or other person in charge of such vessel shall, without lawful excuse, refuse to allow any master attendant or any of his deputies or assistants to enter such vessel for the performance of any duty imposed upon him by this Ordinance, he shall for every such offence be liable to a fine not exceeding twenty pounds.

Master attendant to give assistance to ships in distress.

11 The master attendant shall render assistance to vessels in distress within sight of the port by every means in his power.

Digitized by Google

Duties of Masters Attendant, &c.

Flag to be hoisted when passage to or from ships dangerous.

12 Whenever the passage of boats to or from any vessels at anchor in any port shall become dangerous, the master attendant shall hoist a white flag with a red ball in the centre in some conspicuous place, and shall keep the same so hoisted as long as such danger shall continue; and if any master or person in charge of a vessel or other person shall, after such signal shall have been made, prevent any boat which may be alongside of any vessel from returning ashore, every such master or person shall be guilty of an offence, and be liable to a fine not exceeding ten pounds; and the remuneration to be made in respect of any boat returning under such circumstances shall be determined by the master attendant, and shall not thereafter be questioned.

Any floating timber, &c., or obstruction on shore to be removed at expense of owner.

13 The master attendant may remove or cause to be removed any timber or raft floating or being in any part of any such port which shall impede the free navigation of such port; or anything which shall obstruct or impede the lawful use of any pier, jetty, landing place, wharf, quay, dock, mooring or other work, or any part of the shore or bank which has been declared to be within the limits of such port, and which is not private property; and the owner of any such timber or raft, or other thing, shall be liable to pay the reasonable expenses of such removal.

Penalties for causing obstruction or public nuisance.

14 If any person shall, without lawful excuse, cause any obstruction or impediment to the navigation of any port subject to this Ordinance, or shall cause any public nuisance affecting or likely to affect such navigation, every such person shall be liable to a penalty not exceeding ten pounds, and also to pay all reasonable expenses which shall be incurred in abating or removing such nuisance, obstruction, or impediment, and the master attendant of the port may cause such nuisance, obstruction, or impediment to be abated and removed.

Master attendant may raise any wreck impeding navigation.

15 If any vessel shall be wrecked, stranded, or sunk in any such port, so as to impede or to be likely to impede the navigation thereof, the master attendant may cause the same to be raised, removed, or destroyed; and unless the expense of such work shall be repaid within one month after the completion thereof, he shall recover the same in the manner provided by the 16th section of this Ordinance.

Expenses of removal.

16 If the master attendant shall incur any expense in causing any obstruction, impediment, wreck, or nuisance to be removed, and such expense be not paid within one week after the same shall have been notified in the *Gazette*, or in such other manner as the Governor by any general or special order may direct, such expense certified to by the master attendant, and reported to the police court of the district, may be recovered in the same manner as any fine imposed by that court. The master attendant may, in addition to or exclusive of such remedy, cause such timber, raft, or other thing, or the materials of any nuisance or obstruction so removed, or so much thereof as may be necessary, to be sold by public auction, and may retain all the expenses of such removal

Digitized by Google

and sale out of the proceeds of such sale, and shall pay the surplus of such proceeds or deliver so much of the timber and other materials as shall remain unsold to the owner or other person entitled to receive the same, and if no such person appear shall cause the same to be kept and deposited in such manner as the Governor may direct, and may, if necessary, from time to time realize the expenses of keeping the same, together with the expenses of such sale, by a further sale of so much of the said timber or other materials as may remain unsold.

17–22 Repealed by No. 4 of 1899.

Licensed Boats.

Passenger and cargo boats to be licensed. [§ *3, 6 of 1896*]

23 No boat of any kind shall be used for the conveyance for hire of passengers, *or as a bumboat, or as a boat for the conveyance of traders, hawkers, or of goods for sale*, or for landing or shipping any cargo or goods, and no person shall act as tindal thereof, unless such boat and tindal shall be licensed for that purpose, by license under the hand of the master attendant of the port, such license to be issued and recalled or taken away in case of any misconduct by the owner, tindal, or any of the boatmen thereof, at the discretion of such master attendant, or (in the case of cargo boats and their tindals) of the collector of customs; and such license shall be in force for such period as may be expressed therein, unless previous to the expiration thereof the same shall be recalled or taken away as aforesaid, and shall specify the burthen and description of the boat and (if a passenger boat) the number of passengers that may be conveyed therein at one time, the name of the owner and the tindal thereof, and the number of boatmen to be employed in the same, and all licenses shall be registered in the offices of the master attendant at each port respectively; and such license shall be on a stamp of six shillings, to be paid by the owner of the boat and tindal respectively: **Proviso.** Provided, however, that it shall be lawful for vessels in landing or shipping passengers or cargo or goods to make use of their own boats: **Proviso.** Provided further, that where a master attendant refuses granting a license to any person applying for the same or recalls the license after it is issued, he shall with all convenient despatch report such refusal or recalling to the Governor, by whom the same shall and may be confirmed or reversed.

Penalty on tindals and boatmen of licensed boats for misconduct.

24 All owners of boats, tindals, and boatmen of licensed boats shall obey the orders of the master attendant of the port, and no licensed boat shall be absent from the port without his leave; and if the owner, tindal, or principal person of any licensed boat shall not so obey the said orders or shall suffer his licensed boat to be absent from the port without leave as aforesaid, or if he, on any verbal or written notice being given to him by the master attendant of the port or any officer of his department ordering such boat to proceed on board any vessel, shall refuse or neglect to comply with such order, not being manifestly prevented therefrom by stress of weather, or if he shall, when so required

Digitized by Google

to proceed, have fewer seamen on board his boat than the number specified in his license, unless by permission of the master attendant, who may in such case at his discretion order a proportionate reduction of the charges payable for the hire of such boat, such owner, tindal, or principal person shall be guilty of an offence, and be liable on conviction thereof to any fine not exceeding ten pounds.

Penalty on employment of unlicensed boats.

25 If any passengers or goods be landed from or shipped to any vessel in any of the said ports in any boats except in boats licensed as above mentioned, or in boats belonging to such vessel, or after the expiration of the period mentioned in such license, or after the same has been recalled, or contrary to the terms thereof, the owner, tindal, or person in charge of such boat shall be guilty of an offence, and be liable to a fine not exceeding two pounds, and the said goods and the unlicensed boat in which they may have been landed or shipped shall be forfeited, and shall be dealt with in the same manner as goods declared to be forfeited or liable to forfeiture by the laws for the time being in force relating to the customs.

Where specification of description, &c., of packages necessary.

26 In landing the cargoes of vessels, each separate boat load shall be accompanied by a note, addressed to the collector of customs, specifying the number and description of the packages and the marks and numbers affixed thereon, or, if in bulk, the quantity, as far as can be ascertained, of the goods so sent: Provided that it shall be lawful for the Governor, by general or special directions to be by him for that purpose given to the collector of customs of any port, to allow any vessels or class of vessels to give boat notes in any simpler form, if it be found inexpedient to require of them the fuller form above prescribed. In default of giving a note as required by this Ordinance, or by the directions of the Governor as aforesaid, the master or supercargo shall be deemed guilty of an offence, and be liable to a fine not exceeding ten pounds.

Number of boat to be painted thereon.

27 The owner of every boat shall paint or cause to be painted, and shall keep painted in white or yellow, in English figures not less than twelve inches in length on a black ground on a conspicuous part on both sides of the bow of such boat, in a legible and distinct manner, the number of such boat as mentioned in the license; and the license of such boat may be withheld until it is so marked.

Licensed boat to be always kept seaworthy.

28 Every licensed boat shall be kept well and completely dunnaged and seaworthy, and the master attendant shall, as often as he may think necessary, require the owners of licensed boats or any one or more of them to expose them in some convenient place for his inspection, and in case any owner shall neglect or refuse so to expose any boat belonging to him, and in case on any boat being so exposed the master attendant shall deem it unseaworthy, it shall be lawful for the master attendant to recall the license.

Owners of licensed boats to

29 The owners of licensed boats shall keep and provide for service during the night, that is to say, from six o'clock

Digitized by Google

in the afternoon until six o'clock in the morning, two full-sized boats with their proper crews, according to a course or rotation to be specified by the master attendant on the first day of every current month, and to be notified in writing on some conspicuous part of his office, as regards the particular nights for the attendance of particular boats; and every owner of such boat who shall fail to provide his boat properly manned, and in all respects fit for service, shall be guilty of an offence, and be liable on conviction thereof to any fine not exceeding five pounds.

keep two boats always ready for service in the night time.

Masters of Vessels.

Penalty on throwing ballast, &c., overboard.

30 If any master or other person shall throw overboard from any vessel any stones or ballast or rubbish, or any other thing whatever likely to form a bank or shoal or to be detrimental to navigation within any of the said ports, except in such places as may be appointed for the purpose by the master attendant, and if any stones or ballast landed from any vessel on any wharf, quay, or other landing place in any of the said ports or in any place prohibited by public notice in writing signed by the collector and master attendant of the port, be not removed, within twenty-four hours after the same shall have been landed, to the depositories appointed by the collector of customs and master attendant of the port, the master or other persons so throwing overboard or landing such stones or ballast shall be guilty of an offence, and liable on conviction thereof to a fine not exceeding twenty pounds over and above any expenses which may be incurred in removing the same, and which expenses shall be recovered in manner provided by the 16th section.

Ship losing anchor to give notice to master attendant.

31 Whenever any vessel shall have lost any anchor or cable in any of the said ports, the master or person in charge thereof shall immediately give notice of such loss to the master attendant, together with the bearings of such anchor or cable, and a description of any marks on them by which they could be recognized when discovered: Provided always that it shall at all times be lawful for such master or person in charge to sweep for, and fish up, and recover such anchor or cable at his own expense.

When share of value of lost anchor to be paid to master attendant or other person recovering it.

32 If any master or person in charge of a vessel in any of the said ports shall request the master attendant to recover any anchor or cable which he shall have lost at any place therein, or if information shall be given to the master attendant that any anchor or cable has been found in any of the said ports, or is known or reported to have been lost from any vessel therein, the master attendant shall use his best endeavours to recover such anchor or cable, and shall be entitled upon recovering the same to one-third of the value thereof; and if the master attendant shall at any time refuse or neglect for the period of one calendar month after such request being made or such information being given to use such endeavours as aforesaid, it shall be lawful for any other person or persons, at his or their own expense, to sweep for, and fish up, and recover such anchor or cable, and such person or persons shall in like manner be entitled to one-third of

39-00 Digitized by Google

the value of any anchor or cable so recovered by him or them: Provided always that if any difference of opinion shall arise between the master attendant and the master or person in charge of any such vessel, or his agents, as to the value of any such anchor or cable, the point shall be referred to the collector of customs, and his decision shall be conclusive; and if any such difference shall arise between the master or person in charge of any ship or vessel, or his agents, and any other party or parties recovering such anchor or cable, the same shall be referred to the master attendant, whose decision shall be conclusive.

Proviso.

Anchor not owned within twelve months to become the property of Her Majesty.

33 All anchors and cables which shall be recovered within any of the ports and by any person other than the person in charge of the vessel from which they are known to have been lost shall be landed at the wharf or place appointed for that purpose; and if the same shall not be claimed within the period of twelve months they shall become the property of Her Majesty, and shall be sold by public auction. Two-thirds from the proceeds shall go to the party or parties who recovered the said anchor and cable, and one-third to Her Majesty.

Penalty on master of vessel or pilot or other person offending against this Ordinance.

[*See* § *15, 4 of 1899*]

34 If any master or person in charge of a vessel.........or other person shall in any case fail or neglect to observe any lawful directions of the master attendant, or to do anything required of him by this Ordinance or by any port rule to be made under the authority of the sixth clause, or shall do or omit to do anything contrary to the true and plain meaning of this Ordinance, or of any such port rule, or if any master or person in charge of any vessel or any other person shall interfere with any master attendant, or any of his deputies or officers, or any person acting under his authority, in the execution of his duty in regard to such vessel, so as to resist or impede him or them in the proper performance thereof, every such master or person in charge of a vessel, or other person, shall be guilty of an offence, and be liable to a fine not exceeding twenty pounds.

Vessels not to obtain clearance until all charges are paid.

35 The officer of Government whose duty it shall be to grant a port clearance for any vessel shall not grant such port clearance until the owner, agent, or master of that vessel, or some other person, shall have paid all port dues, fees, and charges to which such vessel, or the owner or master of such vessel in respect thereof, shall be liable under this or any other Ordinance.

Ordinance not to extend to Government vessels or ships of war.

36 Nothing in this Ordinance contained shall extend to any vessel belonging to or in the service of Her Majesty, or to any vessel of war belonging to any foreign prince or state, nor affect any law relative to the customs, nor any order or direction which shall have been lawfully made or given in pursuance of the provisions of any such law.

37, 38 Repealed by No. 3 of 1883, itself repealed by No. 15 of 1898.

Miscellaneous.

Special Rule.

Removing stones, &c., or injuring shores, prohibited.

39 In every port subject to this Ordinance, to which the provisions of this section shall be extended by an order of the Governor, no person, without the permission of the

Digitized by Google

master attendant, shall remove or carry away any rock, stones, shingle, gravel, sand, or soil, or any artificial protection from any part of the bank or shore of such port; and no person shall sink, bury, or drive, in any part of such bank or shore, whether the same be public or private property, any mooring post, anchor, or any other thing which is likely to injure, or to be used so as to injure such bank or shoal, except with the permission of the said master attendant, and with the aid or under the inspection of such person or persons (if any) as he may appoint to take part in or overlook the performance of such work. If any person shall offend against the provisions of this section, he shall be liable to a fine not exceeding ten pounds for every such offence, and to pay the expenses of repairing the injury (if any) done to such bank or shore, such expenses being recoverable in the manner provided by the 16th section.

40 All offences against this Ordinance shall and they are hereby declared to be fully cognizable and punishable by police courts, and all sums becoming due by reason of any of the provisions thereof shall and they are hereby declared to be recoverable before courts of requests, though such offences and sums should exceed the ordinary jurisdiction of those courts. Offences against this Ordinance, and debts due thereunder, to be respectively punishable and recoverable in police courts and courts of requests.

18th October, 1865.

No. 6 of 1880.

An Ordinance for the regulation and government of Boatmen employed in Licensed Boats.

WHEREAS it is necessary that provision should be made for regulating and governing boatmen to be employed in licensed boats under the provisions of "The Masters Attendant's Ordinance, 1865": It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1 This Ordinance shall be construed as one with "The Masters Attendant's Ordinance, 1865," hereinafter referred to as "the principal Ordinance," and may be cited as "The Boatmen's Ordinance, 1880." To be construed as one with "The Masters Attendant's Ordinance, 1865." Short title.

2 This Ordinance shall extend to the port of Colombo only, but the Governor, with the advice of the Executive Council, may by Proclamation extend it to any other port or ports to which the provisions of the principal Ordinance extend. Ordinance to apply to Colombo, with power to Governor and Executive Council to extend it to other ports.

3 The term "licensed boat" shall mean any licensed boat when employed in carrying passengers for hire, *and any bumboat and any boat used by traders or hawkers or for the conveyance of goods for sale.* Interpretation. [§ *4, 6 of 1896*]

4 From and after the first day of January, 1881, every person to be employed as a boatman in, or to serve as one of the crew, or in any capacity on board of any licensed boat, shall be duly licensed for that purpose as hereinafter provided. Boatmen to be licensed.

5 It shall be the duty of the master attendant to register in a book to be kept for that purpose, and to be called "The Register of Licensed Boatmen," in numerical order, the name, description, and Master attendant to keep register of

Digitized by Google

licensed boatmen; particulars to be entered therein, and shall issue license to boatmen.

such other particulars as may be necessary for identification, of every person applying to be licensed to be employed as a boatman, and he shall thereupon issue to such person a license to be employed as aforesaid, which license shall bear the registered number of the applicant, and shall be in the form in the schedule hereto, and shall be in force for such time as shall be mentioned therein, and the date of such license, together with the period for which it shall be granted, shall be registered in "The Register of Licensed Boatmen." Provided, however, that the master attendant may, for good cause, refuse to issue a license to any person applying therefor, and may from time to time renew any license which may have expired, and such refusal or renewal shall be duly registered in the register.

May refuse to issue license.

Licensed boatmen to have badges and to wear them.

Provision for lost badges.

6 The master attendant shall cause to be delivered to each licensed boatman a badge of uniform pattern, bearing thereon the number of his license, the cost of which shall be paid by the person to whom the same is delivered, and it shall be the duty of every licensed boatman, when acting as such, to wear such badge conspicuously exposed upon his person; and in case the owner of such badge shall at any time satisfy the master attendant that such badge has been lost or destroyed, it shall be lawful for the master attendant to cause another badge to be delivered to such boatman upon his paying the cost thereof.

Boatmen to be under control of master attendant.

7 All boatmen licensed under this Ordinance shall be subject and liable to the orders, directions, and control of the master attendant, who is hereby invested with full power and authority to carry into execution the provisions of this Ordinance.

Master attendant, with approval of the Governor and Executive Council, may make rules for the government of licensed boatmen. Every boatman and tindal to be furnished with a copy of such rules.

8 Rules for the government of licensed boatmen under this Ordinance shall from time to time be prepared by the master attendant, which rules, when approved by the Governor, with the advice of the Executive Council, and published in the *Government Gazette*, shall have the effect of law; and the master attendant shall cause every licensed boatman and the tindal of every licensed boat to be furnished with a copy of such rules in the English, Sinhalese, and Tamil languages.

Offences.

9 The following shall be offences under this Ordinance:

(1) Any person who shall employ, or permit to be employed, or to act or to serve as a boatman, or as one of the crew, or in any capacity on board of a licensed boat, any unlicensed person;

(2) Any unlicensed person who shall be employed, or who shall act or serve as a boatman, or as one of the crew, or in any capacity on board of a licensed boat;

(3) Any licensed boatman who shall violate any rule to be made under the authority of this or the principal Ordinance;

(4) Any licensed boatman who shall act as such without wearing his proper badge exposed in a conspicuous manner;

(5) Any licensed boatman who shall disobey any lawful order given by the master attendant;

(6) Any licensed boatman who, while employed as such, shall use violent or abusive language to any passenger, or who shall threaten or molest any passenger, or who shall by any means extort any money from any passenger;

(7) Any unlicensed person who shall use or exhibit, with intent to deceive, a boatman's badge, or any false badge, intended to represent, or representing a licensed boatman's badge;

(8) Any licensed boatman who shall use or exhibit any badge other than his own;

Penalties.

and the offender shall be liable to a penalty not exceeding twenty rupees, or to imprisonment, with or without hard labour, for any period not exceeding one month.

Digitized by Google

10 If any licensed boatman shall be convicted of any offence against this Ordinance, the master attendant may, in addition to any penalty which may have been imposed upon the offender, suspend or cancel the license of such boatman, and any boatman whose license shall have been suspended as aforesaid shall, for the purpose of this Ordinance, during the period of such suspension, be deemed an unlicensed person.

Master attendant may suspend or cancel boatman's license.

11 When the license of any boatman shall have expired and shall not have been renewed, or when it has been cancelled or suspended, under the provisions of the previous section, the master attendant shall cause an entry thereof to be made in the register, and the boatman whose license shall have expired and shall not have been renewed, or whose license shall have been cancelled or suspended, shall forthwith deliver up to the master attendant his license and badge, and it shall be the duty of the master attendant to return to the person whose license shall have expired and shall not have been renewed, or whose license shall have been cancelled, the original cost of such badge, and to return to the person whose license has been suspended his license and badge, when his period of suspension has expired; and any licensed person who shall neglect or refuse to deliver up his license and badge as required by this section shall be liable to a penalty not exceeding twenty rupees, or to imprisonment, with or without hard labour, for any period not exceeding one month.

When boatman's license has been cancelled or suspended, entry thereof to be made in register, and license and badge to be delivered up. Cost of badge to be returned when license expires. Penalty on neglecting to deliver up license and badge.

12 Any police court shall have jurisdiction over any offence against this Ordinance.

Any police court to have jurisdiction over offences.

SCHEDULE.

License No. ——.

By the Master Attendant of the port of ————.

This is to license ———— as a boatman, under "The Boatmen's Ordinance, 1880," for the port of ————, for the period of ———— from the date hereof.

Dated ————.

A. B.,
Master Attendant.

10th November, 1880.

No. 4 of 1899.

An Ordinance to amend and consolidate the Law relating to Pilots appointed by the Governor of Ceylon.

WHEREAS it is expedient to amend and consolidate the law relating to pilots appointed by the Governor of Ceylon: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Preamble.

1 This Ordinance may be cited for all purposes as "The Pilots' Ordinance, 1899."

Short title.

2 In this Ordinance the following words and expressions have the following meanings, unless a different intention appears from the subject or context—

Interpretation clause.

"Master attendant" means the master attendant of any port, and includes his deputies and assistants.

"Port" means any port brought under the operation of this Ordinance under section 3.

Digitized by Google

"Vessel" includes any ship or boat or any other description of vessel used in navigation of above 100 tons register.

"Master" includes any person having for the time being the charge, command, or control of any vessel.

"Pilot" means any person appointed by the Governor under section 5 for the purposes of conducting vessels to or out of any port named in such appointment.

Governor to declare ports brought under the operation of this Ordinance and to define their limits.

3 The Governor may from time to time, with the advice of the Executive Council, by Proclamation declare the ports which are to be brought within the operation of this Ordinance, and define the limits of such ports respectively.

Pilotage required.

4 It shall be unlawful to bring into or remove out of any port any vessel without having a pilot on board, unless authority in writing so to do has been obtained from the master attendant or some officer empowered by such master attendant to give such authority; and if any vessel shall be brought into or removed out of any port contrary to the provisions of this Ordinance, the master of such vessel shall be liable to a fine not exceeding two hundred rupees for every such offence.

Appointment of pilots.

5 (1) The Governor shall continue from time to time to appoint fit, proper, and qualified persons to be pilots for the purpose of conducting vessels into or out of any port.

(2) The Governor may from time to time remove any pilot so appointed and appoint another in his stead.

(3) All such pilots shall be under the control and subject to the orders of the master attendant of the port for which they may be appointed.

Amount of outward pilotage to be paid in advance.

6 No pilot shall be in anywise bound to conduct any vessel to sea, neither shall any vessel proceed to sea, until the full amount of the outward pilotage of such vessel and the charges due on account of such vessel to the master attendant's department shall be first paid or secured to be paid to the satisfaction of such pilot and master attendant.

Pilots in certain cases to demand payment over and above the amount of pilotage.

7 Every pilot in charge of any vessel in, or entering, or proceeding from any port, who shall remain on board any such vessel for a period exceeding forty-eight hours, either on account of stress of weather or under quarantine, shall be entitled to demand and receive over and above the amount of pilotage charged under port rules made or to be made under the authority of section 6 of "The Masters Attendant's Ordinance, 1865," the sum of five rupees for each and every day he shall so remain on board any vessel.

Penalty on pilot for misconduct.

8 Every pilot who shall refuse, neglect, or delay to take charge of any vessel when required to do so by the master attendant, unless upon good and sufficient cause to justify such refusal, neglect, or delay, and every pilot who shall quit any such vessel or decline the piloting thereof after he has taken charge thereof, or shall by drunkenness or otherwise render himself incapable of conducting any vessel or do any injury to the same or to the tackle or furniture thereof, shall, in addition to his civil liability, be guilty of an offence, and be liable on conviction to a fine not exceeding two hundred rupees.

Penalty on person acting as pilot without authority.

9 It shall be lawful for any pilot within the limits of the port for which he is appointed to supersede in the charge of any vessel any person not appointed to act as a pilot within such limits, and every person assuming or continuing in the charge and conduct of any vessel, not being a pilot or not being duly appointed to act as a pilot within the limits in which such vessel shall actually be, after any pilot duly appointed to act within such limits shall have offered to take charge of such vessel, shall be guilty of an offence, and be liable to a fine not

Digitized by Google

exceeding two hundred rupees. Provided always that, notwithstanding anything in this Ordinance contained, any person shall and may lawfully and without being subject to any penalty by this Ordinance imposed assume or continue in the charge or conduct of any vessel as a pilot where and so long as a pilot duly appointed shall not have offered to take charge of such vessel or made a signal for that purpose, or where and so long as such vessel shall be in distress, or under circumstances which shall have rendered it necessary for the master or person in charge of such vessel to avail himself of the best assistance which at the time could be procured. Proviso.

10 The liability of a pilot for neglect or want of skill shall not exceed the sum of one thousand five hundred rupees, and in the event of his being entitled to fees on account of pilotage in respect of the voyage in which he was engaged when he became so liable, his liability shall not exceed the said sum and the amount payable to him as such fees. Pilot's liability limited.

11 The Governor or the owner or master of a ship shall not be answerable to any person whatsoever for any loss or damage occasioned by the fault or incapacity of any pilot acting in charge of that ship within the limits of any port brought under the operation of this Ordinance. Non-liability of Government, owner, or master where pilot is employed.

12 If any pilot shall in any case fail or neglect to observe any lawful directions of the master attendant, or to do anything required by him by this Ordinance or by any port rule made or to be made under the authority of section 6 of "The Masters Attendant's Ordinance, 1865," or shall do or omit to do anything contrary to the true and plain meaning of this Ordinance or of any such port rule, he shall be guilty of an offence, and be liable on conviction to a fine not exceeding two hundred rupees. Penalty: pilot offending against Ordinance or port rule.

13 Nothing in this Ordinance contained shall extend to any vessel belonging to or in the service of Her Majesty, or to any vessel of war belonging to any foreign prince or state, nor affect any law relative to the Customs, nor any order or direction which shall have been lawfully made or given in pursuance of the provisions of any such law. Ordinance not to extend to Government vessels or ships of war.

14 All offences against this Ordinance shall and they are hereby declared to be fully cognizable and punishable by police courts, and all sums becoming due by reason of any of the provisions thereof shall and they are hereby declared to be recoverable before courts of requests, though such offences and sums should exceed the ordinary jurisdiction of those courts. Offences against this Ordinance and debts due thereunder to be respectively punishable and recoverable in police courts and courts of requests.

15 The Ordinances mentioned in the schedule shall be repealed to the extent specified in the third column thereof, provided that such repeal shall not affect any penalty or punishment incurred in respect of any offence committed against any enactment hereby repealed. Repealing clause.

SCHEDULE.

Ordinances repealed.

Number and Year.	Title.	Extent of Repeal.
6 of 1865 ...	"The Masters Attendant's Ordinance, 1865"	Sections 17, 18, 19, 20, 21, 22, and so much of section 34 as refers to pilots.
9 of 1898 ...	"An Ordinance to amend the Masters Attendant's Ordinance, No. 6 of 1865"	The whole Ordinance.

20th October, 1899.

Digitized by Google

No. 4 of 1900.

An Ordinance to consolidate the Law regulating the carriage of Passengers and Goods by Boat.

Preamble.

WHEREAS it is expedient to consolidate the law regulating the carriage of passengers and goods by boat in this island: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Short title.

1 This Ordinance may be cited for all purposes as "The Boats Ordinance, 1900."

Repeal.

2 From and after the passing of this Ordinance the Ordinances mentioned in schedule I. hereto shall be repealed to the extent specified in the 3rd column thereof.

CHAPTER I.

The Licensing of Boats.

Definition.

3 In this Ordinance, unless the context otherwise requires,—

"Proper authority" shall include the government agent of any province, the assistant government agent of any district, the chairman of any municipal or local board town, and the assistant government agent of Nuwara Eliya.

"Goods or passengers" shall include goods and passengers.

"Boat" shall include all boats, padas, dhonies, kula boats, battals, ballams, canoes, and catamarans, whether propelled by steam or otherwise, and used in the sea adjacent to, or in the rivers, canals, lakes, and inland waters of this island.

"Collector of customs" shall include the principal collector, deputy collector, assistant collector, or other principal officer of customs of any port or place.

"Port" shall include all harbours, roadsteads, and places of anchorage in the island.

Boats to be licensed.

4 Subject to the provisions contained in section 29, no boat shall be used for carrying goods or passengers for hire from any port or place in this island to any other port or place in the island, or in any portion of the sea adjacent to this island, or in any river, canal, lake, or inland water within the same, unless the owner thereof shall have obtained a license for the same from the proper authority having jurisdiction within the province or town in which such owner resides or exercises his calling under the provisions of this Ordinance.

Proper authority to issue license on application and after inquiry.

5 (1) Any owner of a boat who may be desirous of obtaining a license to use such boat for the purpose of carrying goods or passengers for hire shall make an application in writing to that effect to such proper authority, which application shall be substantially in the form D in schedule II. hereto, and shall state accurately the cargo capacity of, and the number of passengers (if any) intended to be carried in, such boat, the length, breadth, and depth of such boat, the number of the crew to be carried by such boat, and whether such boat is propelled by steam or otherwise, and the class of boat for which such license is desired, and shall contain a true and full description of the names and residences of the owners or owner of the boat. Every such application shall be signed by the applicant, and the proper authority, on being satisfied, after making such inquiry as he shall deem necessary, that such boat is in good order and fit to be used for the purpose of carrying goods or passengers or both, as the case may be, shall issue a license to the owner of such boat.

(2) If it shall become necessary to license any boat belonging to two or more persons in partnership, or to a corporate body, or to a joint stock company, such application may be made by one of the partners, or by the persons managing the affairs of such partnership, body, or company.

Digitized by Google

Duties of Masters Attendant, &c.

6 (1) Each license for a boat shall bear a stamp of three rupees, such stamp to be supplied by the party applying for the license. License to be stamped.

(2) The license for passenger boats shall be substantially in the form A in schedule II. hereto, the license for cargo boats shall be substantially in the form B in schedule II. hereto, and the license for boats carrying both passengers and cargo shall be in the form C in schedule II. hereto. Every such license shall specify the cargo capacity of such boat and the number of passengers, if any, to be carried by such boat, the number of the boat, and the number of the crew, the places between which such boat may ply, and the name of the boat, if any. Form and duration of license.

(3) Each license shall be in force until the thirty-first day of December in the year in and for which the same shall be granted, and no longer.

7 The proper authority shall number each license issued by him consecutively, commencing at the beginning of every year with the number 1, and shall keep a book in which he shall register all the particulars stated in the license granted by him, and every entry in such register shall be numbered in accordance with the number of the license to which it has reference. Any authenticated copy or extract from the register shall be deemed *primâ facie* evidence of the facts stated therein. License to be numbered and registered.

8 It shall be lawful for the proper authority to withdraw a license, after the same shall have been issued, if he has reason to believe that a boat is out of repair and not fit to be used for the purpose for which it was licensed, or if the owner shall commit any breach of the provisions of this Ordinance or the by-laws made thereunder. Provided that when the proper authority withdraws a license after it is issued, he may, if satisfied that the boat has been repaired and is fit to be used for the purpose of carrying goods or passengers, re-issue such license free of stamp duty. Proper authority may withdraw license.

9 The owner of every boat shall paint or cause to be painted, and shall keep painted, in English figures, and not less than nine inches in length, in white or yellow on a black ground, or in black on a white or yellow ground, on a conspicuous part on both sides of the bow of such boat, in a legible and distinct manner, the number of such boat as mentioned in the license, preceded by a distinguishing letter in English denoting the port or place of registry; and in the case of any boat propelled by a sail or sails, such number and letter shall be similarly painted on such sail or sails; and the license of such boat may be withheld until it is so marked. Number of boat to be painted thereon.

10 In case any boat so licensed as aforesaid shall be transferred to another by sale, gift, or otherwise, the person to whom the same shall be so transferred shall notify the same to the proper authority, in order that such transfer may be entered in the book of license and a new license issued to the person to whom it shall be so transferred. Notice of transfer to be given.

11 If any boat shall be sunk, destroyed, or rendered wholly unfit for use, the owner thereof shall notify the same to the proper authority, in order that the number may be erased from the book of licenses. Notice to be given if boat destroyed or rendered unfit for use.

12 The original of the license shall be retained by the owner of the boat, but the person in charge of the boat shall have the duplicate of such license, and be ready to produce the same whenever thereunto required. Owner to have original license and driver duplicate and ticket.

13 The proper authority may, on his being satisfied that any license has been lost or destroyed by accident, issue an exemplification of the license on the application of the owner of the boat. Proper authority may issue license, &c., in place of one lost or destroyed.

Digitized by Google

Duties of Masters Attendant, &c.

Books and lists to be kept of boats licensed.

Inspection.

14 The proper authority shall and he is hereby required to keep a book or books in which shall be entered the lists of the boats licensed under this Ordinance, with all necessary particulars. It shall be lawful for any person at any time, during office hours, to demand inspection of the said lists, and also to take copies or extracts therefrom.

CHAPTER II.

Liabilities of Owners of Boats.

Liabilities of the owners of licensed boats.

15 The owner of every licensed boat used for the conveyance of goods for hire shall, in the absence of any specified contract between him or the person in charge of such boat and any other party for the conveyance of such goods, be liable for any loss of or injury to any goods, articles, or property whatsoever delivered to be carried therein for hire, which shall be occasioned by the neglect or misconduct of such owner or of any boatman, bookkeeper, or other person or servant in his employ or in charge of any such boat; and such liability shall be deemed to continue in the person who shall have made the application under section 5 unless and until he shall have given the notice of transfer required by section 10. Provided, however, that nothing in this section contained shall be construed to limit or in anywise affect the liability of any such owner as a common carrier, if he shall be such.

Proviso.

Not liable for loss of certain goods above fifty rupees unless delivered as such.

16 No such owner shall be liable for the loss of or injury to any article or articles or property of the description following: that is to say, gold or silver coin of this or any other country, or any gold or silver in a manufactured or unmanufactured state, or any precious stones, jewellery, watches, clocks, or timepieces of any description, trinkets, bills of exchange, orders, notes, or security for payment of money, stamps, maps, writings, title deeds, paintings, engravings, pictures, gold or silver plate or plated article, glass, china, opium, silks in a manufactured or unmanufactured state, and whether or not wrought up into other material or lace, or any of them, contained in any parcel or package which shall have been delivered to be carried for hire, or to accompany the person of any passenger, when the value of such article or articles or property aforesaid contained in such parcel or package shall exceed the sum of fifty rupees, unless at the time of delivery thereof at the office, warehouse, or receiving house of such owner, or to such owner or his boatman, bookkeeper, or other servant, for the purpose of being carried, or of accompanying the person of any passenger as aforesaid, the value and nature of such article or articles or property shall have been declared by the person sending or delivering the same, and such increased charge as hereinafter mentioned, or an engagement to pay the same, be accepted by the person receiving such parcel or package.

Increased rate of charge for such goods.

17 When any parcel or package containing any of the articles above specified shall be so delivered and its value and contents declared as aforesaid, and such value shall exceed the value of fifty rupees, it shall be lawful for the person receiving the same for carriage on hire to demand and receive an increased rate of charge, to be notified by some notice affixed in legible characters in some public and conspicuous part of the office, warehouse, or other receiving house, where such parcel or package was received for the purpose of conveyance, stating the increased rates of charge required to be paid over and above the ordinary rate of carriage as a compensation for the greater risk and care to be taken for the safe conveyance of such valuable articles; and all persons handing or delivering any such parcels or package at any such office shall be bound by such notice, without further proof of the same having come to their knowledge.

Carriers to give receipts.

18 Whenever any goods shall have been received for conveyance for hire by any licensed boat, whether the same be such goods as are mentioned in section 16 or other goods, the person receiving the same

Digitized by Google

for conveyance on hire shall, if thereto required when the rate of conveyance shall have been paid, or an engagement to pay the same shall have been accepted, sign a receipt for the said goods, setting out therein the name and residence of the owner; and if such receipt shall not be given when required, the person so receiving the same for conveyance, in addition to any other liability which he may incur by such refusal, shall not have or be entitled to any benefit or advantage under section 16, and shall be liable to refund any increased rate of charge he may have received in respect of the goods specified therein, and shall further be liable to a fine not exceeding twenty rupees.

Penalty in case of neglect.

19 No public notice or declaration by the owner of any licensed boat shall be deemed or construed to limit or in anywise affect his liability as aforesaid for or in respect of any articles or goods to be conveyed by him, but all and every such owner shall be liable to answer for the loss of or any injury to any articles and goods in respect whereof they may not be entitled to the benefits of section 16, any public notice or declaration by them made and given in anywise limiting such liability to the contrary notwithstanding.

Publication of notice to limit liability in respect of other goods.

20 Any one or more of the owners of any licensed boat shall be liable to be sued by his or their name or names only; and no action or suit commenced to recover damages for loss or injury to any parcel, package, or person shall abate for the want of joining any co-proprietor or co-partner in such boat.

Any owner may be sued.

21 Where any such goods as are mentioned in section 16 shall have been delivered as aforesaid, and the value and contents declared as aforesaid, and the increased rate of charge (if any) paid, and such goods shall have been lost or damaged, the party entitled to recover damages in respect of such loss or damage shall also be entitled to recover such increased charge so paid as aforesaid, in addition to the value of such goods.

Parties entitled to damages may also recover extra charges.

22 Nothing in section 16 of this Ordinance contained shall be deemed to protect the owner of any licensed boat from liability to answer for loss or injury to any goods or articles whatsoever arising from theft or fraudulent conduct of any boatman, bookkeeper, or other person or servant in his employ or in charge of such boat, or to protect any boatman, bookkeeper, or other person or servant from liability from any loss or injury occasioned by his or their own personal neglect or misconduct.

Owner liable for thefts committed by his servants, &c.

23 No owner of any licensed boat shall be concluded as to the value of any goods whereof the value shall be declared in pursuance of section 16, but he shall in all cases be entitled to require from the party suing in respect of any loss or injury proof of the actual value of the said goods by the ordinary legal evidence; and such owner shall be liable to such damages only as shall be proved as aforesaid, not exceeding the declared value, together with the increased charges as aforesaid.

Owner liable to such damages only as are proved.

24 All goods and merchandise sent by any licensed boat for the purpose of delivery at any place within this island shall, in the absence of any special contract to the contrary, be delivered according to the direction thereof within twenty-four hours after the arrival of any such boat at the place of delivery, and in default thereof the owner of such boat shall forfeit and pay for every such offence any sum not exceeding twenty rupees.

Goods sent by boats to be delivered within twenty-four hours.

CHAPTER III.

Miscellaneous.

25 It shall be lawful for the Governor, with the advice of the Executive Council, from time to time, or at any time, to make, and when made revoke, add to, or alter by-laws for any of the following purposes:

By-laws.

Digitized by Google

For regulating the number and description of lights to be carried by any class of boats used for the purposes of carrying passengers or goods, and for limiting the pace of such boats, and generally for providing for the safety and comfort of the passengers conveyed by any such boat, and for providing for the issue of licenses to the tindals of such boats, and for the recalling and taking away of such licenses in case of misconduct, and for regulating the number of boatmen to be employed in such boats.

Publication of by-laws.

26 Any by-law when made, added to, or altered shall be published in the *Government Gazette*, and when so published shall, until the same is revoked in manner aforesaid, be as valid, legal, and effectual as if such by-law had been inserted in this Ordinance.

Penalties.

27 Any person committing any of the following acts shall be guilty of an offence, and shall on conviction be liable to a fine not exceeding one hundred rupees :

(1) Neglecting or omitting to specify truly in the application required by section 5 the name of any person who shall be an owner or part owner of any boat.

(2) Neglecting or omitting to paint or to cause to be painted or to keep painted on any licensed boat the number and letter prescribed by section 9, in the manner therein enacted, during the continuance of such license.

(3) Neglecting or omitting to paint or to cause to be painted or to keep painted on the sail or sails of any licensed boat propelled by a sail or sails the number and letter prescribed by section 9, in the manner therein enacted, during the continuance of such license.

(4) Using a boat for the purpose of carrying goods or passengers for hire without license, or after such license shall have expired.

(5) Refusing to allow or to permit any person deputed by the proper authority in writing under this Ordinance to examine any boat for the purpose of reporting thereon to the proper authority.

(6) Permitting or suffering more passengers or persons to enter a boat than such boat is authorized by the license to carry.

(7) Loading or suffering or permitting to be loaded in any boat goods or cargo in excess of the cubic measurement or weight stated in the application required by section 5 as the cargo capacity of such boat.

(8) Plying a boat licensed under this Ordinance for hire in any port which has been declared by Proclamation to have been brought within the provisions of "The Masters Attendant's Ordinance, 1865," without having obtained a license under such Ordinance.

(9) Committing a breach of any by-law made under the provisions of this Ordinance.

Saving clause.

28 Nothing in this Ordinance contained shall authorize any proper authority to issue a license to any owner of a boat to use a boat for the purpose of the conveyance of goods or passengers for hire in any port which has been declared by Proclamation to have been brought within the provisions of "The Masters Attendant's Ordinance, 1865," nor shall the owner of any boat used for the purpose of conveying goods or passengers for hire in any port which has been duly licensed under the provisions of the said Ordinance, whilst plying for hire within the limits of such port, be subject to the provisions of this Ordinance or be liable to prosecution for the breach of any provision herein.

Digitized by Google

29 The Governor in Executive Council may by notification in the *Government Gazette* delegate the enforcement and execution of any provisions of this Ordinance in respect of boats which are used for carrying passengers by sea from any port or place to any other port or place to the master attendant or collector of customs at any such port or place, and may authorize such master attendant or collector of customs to perform all or any of the powers and duties vested in and imposed on the proper authority under this Ordinance, subject to such restriction as the Governor in Executive Council may from time to time think fit to impose. Execution of Ordinance may be delegated to master attendant or collector of customs.

30 If in any prosecution or proceeding under this Ordinance any question shall arise as to whether any boat has been used for the conveyance of any passengers or goods for hire without a license, or as to whether a license has been obtained for any boat within the meaning thereof, or as to whether any person has made the declaration required by section 5, the proof that such passengers or goods were not conveyed for hire, or in the case of goods that the goods belong to himself, or that license has been obtained or the declaration made, shall be upon the accused or the party against whom such prosecution or proceeding shall be had. Proof of license to be on the accused. Provided that it shall be lawful for the court to award a reasonable sum in lieu of costs to the accused against any person who may have made a vexatious complaint, and such sum shall be recovered in like manner as any fine imposed under the provisions of this Ordinance. Proviso.

31 Where a person is charged with any offence against sub-section (4) of section 26,* and it is established by the prosecution to the satisfaction of the court that there were more persons carried in such boat than were necessary for its working, such person shall be presumed to have used such boat for the purpose of carrying passengers for hire, unless and until he shows to the satisfaction of the court before which he is charged that none of the persons in such boat were carried for hire. Burden of proof.

32 The court before which the prosecution or proceeding is taken may award any share of the fines actually recovered and realized, not exceeding one-half, to be paid to the informer. Informer's share of penalty.

33 No prosecution shall be instituted against any person for any offence committed against any of the provisions of this Ordinance cognizable by the police court, unless the same shall be commenced within one month from the time of the commission of such offence. Limitation of prosecution.

34 The provisions of this Ordinance shall not apply to boats the property of the Crown or of committees established under the provisions of "The Road Ordinance, 1861," or of village communities under the Ordinance No. 24 of 1889. Certain boats exempted from the Ordinance.

SCHEDULE I.

Ordinances repealed.

Number and Year.	Title.	Extent of Repeal.
14 of 1865	... "The Carriers' Ordinance, 1865"	So much thereof as relates to boats.
8 of 1891	... An Ordinance providing for the Licensing and Registration of Passenger Boats	... The whole.

* 26 is a misprint in the original for 27.

Digitized by Google

SCHEDULE II.

A.—License for Passenger Boat.

Whereas *A. B.*, of ———, in the ——— Province, has applied for a license under "The Boats Ordinance, 1900," for the carriage of passengers for hire, and has made and signed the application thereby required: license is hereby granted unto the said ——— to use the boat hereunder described for the purpose aforesaid from the date hereof until the 31st December next.

The boat for which this license is granted bears No. ——, is named the ———, and shall be manned by a crew of not more than ——— or less than ——— persons.

Shall not carry more than ——— passengers on any one voyage or trip. Has a cargo capacity of not less than ———.

Signed ———,
——— Proper Authority.

B.—License for Cargo Boat.

Whereas *A. B.*, of ———, in the ——— Province, has applied for a license under "The Boats Ordinance, 1900," for the conveyance of goods for hire, and has made and signed the application thereby required: license is hereby granted unto the said ——— to use the boat hereunder described for the purpose aforesaid from the date hereof until the 31st December next.

The boat for which this license is granted bears No. ——, is named the ———, and shall be manned by a crew of not more than ——— or less than ——— persons.

Has a cargo capacity of not less than ——— cubic feet by measurement, and not more than ——— tons by weight. Is not licensed to carry passengers.

Signed ———,
——— Proper Authority.

C.—License for Passenger and Cargo Boats.

Whereas *A. B.*, of———, in the———Province, has applied for a license under "The Boats Ordinance, 1900," for the conveyance of passengers and goods for hire, and has made and signed the application thereby required: license is hereby granted unto the said ——— to use the boat hereunder described for the purposes aforesaid or either of them from the date hereof until the 31st December next.

The boat for which this license is granted bears No. ——, is named the ———, and shall be manned by a crew of not more than ——— or less than ——— persons.

Shall not carry more than ——— passengers on any one voyage or trip. Has a cargo capacity of not more than ——— cubic feet by measurement, and not more than ——— tons by weight.

Signed ———,
——— Proper Authority.

D.—Application containing particulars of Boat.

I, *A. B.*, of ———, do truly declare as follows:

I am the owner (joint owner *or* manager, *as the case may be*) of the boat hereunder described, and I desire a license for the said boat for the conveyance of passengers (*or* goods *or* passengers and goods) for hire between ——— and ——— for the period of one year (*or as the case may be*) from the ——— day of ———, 19—.

Digitized by Google

The boat for which the license is required is named the ———, will be manned by a crew of not more than ——— or less than ——— persons. Is propelled by steam (*or as the case may be*), has a superficial area of ——— feet sufficient for the carriage of ——— passengers and ——— crew, or ——— persons in all.

Has a cargo capacity of ——— cubic feet by measurement and ——— tons by weight, is ——— feet long from bow to stern, is ——— feet broad amidship, is ——— feet deep amidship.

Declared at ———, the ——— day of ———, 19—.

(Signed) *A. B.*

21st March, 1900.

No. 7 of 1865.

Ordinance for making the Age of Twenty-one Years the Legal Age of Majority in this Colony.

WHEREAS it is expedient that the same period of majority should be fixed for all persons whatever: It is enacted as follows: — *Preamble.*

1 From and after the passing of this Ordinance all persons when they shall attain or who have already attained the full age of twenty-one years shall be deemed to have attained the legal age of majority, and, except as is hereinafter excepted, no person shall be deemed to have attained his majority at an earlier period, any law or custom to the contrary notwithstanding. — *Twenty-one years made the legal age of majority.*

2 Nothing herein contained shall extend or be construed to prevent any person under the age of twenty-one years from attaining his majority at an earlier period by operation of law. — *Attainment of majority by operation of law not affected.*

18th October, 1865.

No. 11 of 1865.

An Ordinance to consolidate and amend the Law relating to Servants, Labourers, and Journeymen Artificers under Contracts for Hire and Service.

(*As amended by No. 16 of 1884.*)

(*See No. 13 of 1889 and No. 7 of 1890.*)

WHEREAS it is expedient to amend and consolidate the law relating to servants, labourers, and journeymen artificers, under contracts for hire and service: It is enacted as follows: — *Preamble.*

1 The word "servant" shall, unless otherwise expressly qualified, extend to and include menial, domestic, and other like servants, pioneers, kanganies, and other labourers, whether employed in agricultural, road, railway, or other like work. — *Interpretation.*

2 The Ordinances set out in the schedule hereto annexed are hereby repealed except so far as they or any of them — *Ordinances repealed.*

Digitized by Google

repeal any other Ordinance or Ordinances or any part of any other Ordinance or Ordinances, and except so far as respects all offences which may have been heretofore committed against the same or any of them, all rights which shall have accrued, liabilities which shall have been incurred, acts which shall have been done, and all proceedings or matters which shall have taken place before this Ordinance shall come into force.

Verbal contract of service to be a contract of service for one month.

3 Every verbal contract for the hire of any servant, except for work usually performed by the day, or by the job, or by the journey, shall (unless otherwise expressly stipulated, and notwithstanding that the wages under such contract shall be payable at a daily rate) be deemed and taken in law to be a contract for hire in service for the period of one month, and to be renewable from month to month, and shall be deemed and taken in law to be so renewed, unless one month's previous notice or warning be given by either party to the other of his intention to determine the same at the expiry of a month from the day of giving such notice.

Wages when payable.

4 The wages of such servant shall be payable monthly, except where the service shall have been determined by notice on a day other than the last day of the month, in which case the wages for the broken period shall be payable to the day the service is so determined, and such wages, where the same shall not be payable at a monthly rate, shall be computed according to the number of days on which such servant shall have been able and willing to work ; or, if payable at a monthly rate, shall be in proportion to the number of days on which he shall have been so able and willing as aforesaid. Any employer shall be entitled to discharge any such servant from his service under any such contract, without previous notice, provided such servant be instantly paid his wages for the time he has served, and also for one month from the time of such discharge : Provided always that any such contract may at any time be determined by the misconduct of either party in their relative capacity of master and servant, which may be proved by either party against the other.

Term of verbal contract for journeyman artificer.

5 Every verbal contract for the hire, according to time, of any journeyman artificer (where no special contract or agreement shall have been made and duly proved) shall be deemed and taken in law to be a contract for the hire of such artificer for one day, and no longer.

Proviso, if service be continued after the time agreed upon.

6 Provided always that nothing in the preceding clauses of this Ordinance shall be construed to prevent any servant or journeyman artificer, who may continue in the service of his employer beyond the period for which any verbal contract entered into by him is respectively declared binding only in law, as aforesaid, from recovering his wages according to the full period of time of his being in such service ; nor to prevent any similar subsequent verbal contract being respectively implied in law from the continuance of such service or otherwise.

Digitized by Google

7 No contract entered into in this island for the hire and service of any servant or journeyman artificer for any period of time longer than one month shall be valid in law, so as to subject any party thereto to the provisions of this Ordinance for not performing the same, unless such contract shall be in writing, and shall clearly express the terms and conditions thereof, and shall be signed or acknowledged by the parties thereto in the presence of a police magistrate, or a justice of the peace, or other person expressly authorized by the Governor, such justice or other person not being himself the employer of such servant or journeyman artificer or the agent of such employer. And it shall be the duty of such police magistrate, justice of the peace, or other authorized person to see that the contract is fully explained to the parties, and to certify on the contract that they fully understand the terms thereof and are desirous to fulfil the same. And such contract, when produced in evidence, and bearing the certificate of the police magistrate, justice of the peace, or duly authorized person as aforesaid, shall be *primâ facie* evidence of the matters and things contained therein. And every such contract shall be executed in triplicate; and it shall be the duty of such police magistrate, or justice of the peace, or other authorized person as aforesaid, to give or to cause to be given one copy thereof to the servant, and to send or to cause to be sent, within ten days of the execution thereof, another copy thereof to the police magistrate of the district wherein such contract shall have been executed, and in default thereof such magistrate or justice shall be liable to a penalty of five pounds. And the said police magistrate is hereby required to preserve the said counterpart, and to allow any person who may be interested in the said contract to inspect the same: Provided always that no contract (excepting contracts made under the 8th section of this Ordinance) for the hire and service of any servant or journeyman artificer (whether made in Ceylon or in India, as provided by the 9th section) shall be valid under the provisions of this Ordinance if made for a longer period of hire or service than three years.

Written contracts with servants and journeymen artificers for terms of service exceeding one month, but not exceeding three years.

Proviso.

8 It shall be lawful for the Civil Engineer, the Commissioner of Roads, the Surveyor-General, or any other person expressly authorized thereunto by the Governor, to enter into any contract on behalf of Her Majesty, for the hire and service of any person to be employed as a servant or artificer for any period not exceeding five years: Provided that such contract, if made for a period of hire or service exceeding one month, shall (if entered into in this island) be in writing, and shall be executed in the same manner and be subject to the same rules as are prescribed in the preceding section as respects contracts in the case of persons to be employed in service other than that of the Government.

Contracts for the hire of pioneers, &c., to be employed in the service of Government.

Proviso.

9 Every contract entered into in India for the hire and service in this island of any servant or journeyman artificer shall be valid and binding, so as to subject the parties thereto to the provisions of this Ordinance, notwithstanding that the

Contracts entered into in India for hire and service in this island.

Digitized by Google

Proviso.

same be not executed in the manner prescribed by the 7th and 8th sections of this Ordinance: Provided that such contract be in writing, and signed or acknowledged by the parties thereto or their agents respectively, and clearly express the terms and conditions thereof; and provided also that such contract be valid and binding according to the laws of India in force at the time of the entering into such contract; and every such contract as aforesaid when produced in any court of this island shall be deemed valid and binding according to such laws as aforesaid, unless the contrary be proved. It shall be the duty of such employer or his agent with whom any such contract shall be entered into to give, at the time of entering into such contract, a copy thereof to the servant or journeyman artificer with whom such contract shall have been entered into.

Written contracts how determinable.

10 Unless provision to the contrary be expressly made therein, no contract entered into and required to be in writing under the provisions of this Ordinance shall be determinable before the expiration of the period specified therein, except by the mutual consent of the contracting parties, expressed in writing, signed or acknowledged by them in the presence of two witnesses, or except when the party contracting to be employed shall have been convicted of an offence, or have become a prisoner, or permanently disabled from completing his contract, and his employer shall elect to determine the contract, or except for some reason sufficient in law to set it aside: Provided that, in case of such disability to serve, the employer shall be bound to furnish the immigrant from India who shall have contracted in India for any period of service in this island, or who shall have contracted in this island for any period of service not less than one year, with adequate means of returning to his own country.

Proviso.

Servant refusing to work, &c., is guilty of misconduct.

11 Any servant or journeyman artificer who, without reasonable cause, shall neglect or refuse to attend at and during the time and hours, or at the place when and where he shall have contracted to attend, in commencing or carrying on any work, or, in case of no special agreement in that behalf, during such hours as, according to the trade or occupation of such servant or artificer, it shall be usual so to attend, or who, without reasonable cause, shall leave unfinished or refuse to finish any work contracted to be done, or who shall be guilty of any drunkenness, wilful disobedience of orders, insolence, or gross neglect of duty, or other misconduct in the service of his employer, or who shall quit the service of such employer without leave or reasonable cause, before the end of his term of service or previous warning as required by the third clause of this Ordinance, or for such longer period as may be specially stipulated in his contract, shall be punishable by the police court of the district wherein such offence shall have been committed, or wherein the offender shall have been apprehended, by forfeiture of all wages then due, if not exceeding the wages of one month, or for the period

Digitized by Google

of warning specially stipulated for, or by imprisonment with or without hard labour not exceeding three months, or by such forfeiture together with such imprisonment, at the discretion of the court.

12 Every servant who, having engaged to go on any journey, shall, without any just cause, desert, or refuse, or neglect to proceed on such journey or any stage thereof, or shall be guilty of any misbehaviour mentioned in the 11th clause of this Ordinance, shall be punishable by the police court of the district wherein such offence shall have been committed, or wherein the offender shall have been apprehended, by forfeiture of all wages then advanced or contracted for, or by imprisonment with or without hard labour not exceeding three months, or by such forfeiture together with such imprisonment, at the discretion of the said court: Provided always that no servant engaged for a journey shall be obliged to travel on foot more than twenty-five miles during every twenty-four hours; nor shall any coolie engaged for a journey be obliged to carry a greater weight than forty pounds, unless otherwise expressly agreed upon for a short distance only, nor to proceed in case of any actual illness or bodily injury rendering him incapable to travel the journey, or any stage thereof; and any person obliging any servant or coolie so engaged as aforesaid to act contrary to the regulations contained in this proviso shall be punishable by such police court as aforesaid by a fine not exceeding five pounds, or by imprisonment, with or without hard labour, not exceeding three months, or by such fine together with such imprisonment, at the discretion of the said court.

Punishment for desertion, &c., of servant engaged to go upon a journey.

Proviso as to distance to be travelled, and weight carried by such servant.

13 Upon any complaint by any servant or journeyman artificer for non-payment of wages, or damages for breach of contract or misconduct by his employer, before a court having jurisdiction in that behalf, it shall be lawful for such court, at its discretion, to make a proportional abatement out of any sum to be awarded as the wages or damages due to any such servant or artificer, for such days or time as he shall have been proved to have been, without the consent of his employer, absent from or neglecting his service or work, and also for the value of any breakages or damage done to any of the property of his employer by or through the misconduct or gross negligence or carelessness of such servant or journeyman artificer.

Court may make abatement of wages or damage in case of misconduct.

14 In case any employer, not having reasonable cause of complaint, shall refuse payment of wages when due, or not having given such notice or made such payment as required by the 3rd and 4th sections of this Ordinance, shall refuse to continue full payment to any servant or journeyman artificer during the whole term of any contract entered into between them, every such employer so refusing shall, in addition to payment of all wages actually due, or of all that would have become due if the contract had been properly observed, or both, as the case may be, be liable to a fine not exceeding

Penalty on employer refusing without cause to act up to contract.

Digitized by Google

five pounds, or to imprisonment not exceeding three months, or to such fine together with such imprisonment, at the discretion of the court.

Persons giving false character.

15 If any person shall knowingly and wilfully pretend or falsely assert in writing that any servant or journeyman artificer has been hired or retained in his service or employment, or in the service or employment of any other person or persons, for any period of time whatsoever, or in any station or capacity whatsoever, other than that for which such servant or artificer shall have been so employed, hired, or retained, or if any person shall otherwise knowingly and wilfully write, sign, or give any untrue, false, forged, or counterfeit certificate or writing in favour of the character of such servant or artificer, then in every such case such person or persons so offending shall be liable to a fine not exceeding ten pounds, or to imprisonment, with or without hard labour, not exceeding twelve months, or to such fine together with such imprisonment, at the discretion of the court.

Servant, &c., making false statement of former employment or altering character.

16 If any person shall offer himself as a servant or journeyman artificer, asserting or pretending that he hath served in any service or employment in which such servant shall not actually have served, or with a false, forged, or counterfeit certificate of his character, or shall in anywise add to or alter, efface, or erase any word, date, matter, or thing contained or referred to in any certificate given to him by his last or any former actual employer, or by any other person or persons duly authorized by such employer to give the same, then in any of the said cases such person or persons so offending shall be liable on conviction to a fine not exceeding three pounds, or to imprisonment, with or without hard labour, not exceeding three months, or to such fine together with such imprisonment, at the discretion of the court.

Servant, &c., denying former employment.

17 If any person, having been before in service or employment as a servant or artificer, shall, when offering to hire himself in any employment, capacity, or service, falsely and wilfully pretend not to have been hired or retained in any such previous employment, capacity, or service, then and in such case every such person so offending shall be liable on conviction to a fine not exceeding three pounds, or to imprisonment, with or without hard labour, not exceeding three months, or to such fine together with such imprisonment, at the discretion of the court.

18 Repealed by No. 16 of 1884, itself repealed by No. 16 of 1889.

Penalty for seducing servants, or employing them when bound to others, or harbouring or concealing them.

19 Any person who shall wilfully and knowingly seduce or attempt to seduce from his service or employment any servant or journeyman artificer, bound by any contract to serve any other person or persons, or who shall wilfully and knowingly take any servant or journeyman artificer while so bound into his service or employment, or who shall wilfully and knowingly harbour or conceal any servant or journeyman artificer who shall have absented himself

Digitized by Google

without leave from the service of such other person to whom he is so bound, or who shall wilfully and knowingly retain in his service any servant or journeyman artificer bound under any contract to serve any other person after receiving notice in writing that such servant or journeyman artificer is so bound as aforesaid, shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding five pounds in respect of each of the servants or journeymen artificers whom he shall have so seduced, taken, or harboured, or concealed, or retained as aforesaid, and to imprisonment, with or without hard labour, for any period not exceeding three months, if the court shall see fit to impose such imprisonment. Every such offence shall be cognizable before any police court having jurisdiction in the district wherein the offence was committed or the offender apprehended.

Jurisdiction of police court in such cases

Persons employing, &c., labourers under advances liable in double such advances.

20 Any person who shall take into his service or employment, or harbour, conceal, or retain any servant or journeyman artificer bound to serve another by any contract entered into under any of the provisions of the said Ordinance, without taking reasonable precautions to ascertain whether or not such servant or artificer is so bound, or knowing him to be so bound, or after notice that he is so bound, shall, if the servant or artificer be at the time so taken, harboured, or concealed, or retained, under advances from the person to whom he was so bound, be liable civilly to pay to such person as liquidated damages double the amount of such advances.

Servants not liable to punishment if wages unpaid for one month.

21 No servant or journeyman artificer shall be liable to punishment for neglecting or refusing to work, or for desertion, disobedience, or neglect of duty, if at the time of such alleged offence his wages shall have been unpaid for any period longer than a month: Provided always that in computing the amount of wages due at any time, such servant or journeyman artificer shall be debited with the amount of all advances of money made to him, and with the value of all food, clothes, or other materials supplied to him, and which the employer is not liable under this Ordinance to supply at his own expense: Provided also that the fact of such wages being so due as aforesaid shall not affect the liability of such servant or journeyman artificer to punishment under the provisions of this Ordinance,* unless he shall at least forty-eight hours previously to the time of such alleged offence have demanded from his employer the payment of his wages so due, and the employer shall have refused or failed to pay the same.

Kanganies, &c., fraudulently disposing of advances guilty of an offence.

22 Every kangany or other agent who, having been entrusted with any money or valuable security by any person or persons for the purpose of engaging or procuring for hire and service any servant or servants, artificer or artificers, for such person or persons, shall, with intent to defraud, convert or appropriate the same or any part thereof to or for his own use or benefit, or the use or benefit of any person or persons

* But see the provisions of No. 13 of 1889 and No. 7 of 1890 on this point.

Digitized by Google

other than such person or persons as aforesaid or for any purpose other than such purpose as aforesaid, shall be guilty of an offence, and, being convicted thereof, shall be liable, at the discretion of the court, to be transported for any term not exceeding seven years, or to be imprisoned for any term not exceeding three years, with or without hard labour.

Deserters may be directed to return to work instead of being imprisoned or committed.

23 Whenever any servant or journeyman artificer is brought before any court or justice of the peace, on the ground of his having quitted the service of his employer, or having refused or neglected to work, without leave or reasonable cause before the end of his term of service or previous warning, such court or justice of the peace may, if the employer of such servant or his agent so requires, and the labourer consents thereto, instead of punishing or committing to trial the offender, direct him to return to the service of his employer; and the court or justice shall keep a record of the proceedings had before him, and shall certify at the foot thereof that he has satisfied himself that the servant has of his own free will consented to return to the service of his employer.

Period of absence without leave or of imprisonment not to be counted as part of the period of service.

24 If any servant or journeyman artificer, having entered into any contract of hire and service subject to the provisions of this Ordinance, shall, during the subsistence of such contract, have been imprisoned or have absented himself without leave, the court before which he is tried shall award that no part of the period of such imprisonment or of such absence (and which period the said court is to ascertain by evidence and define) shall be deemed or taken to be a part of the period of his service, but that he shall be compellable, at the option of his employer, to serve for the full period defined as aforesaid for which he shall have contracted to serve; and until such extended service shall have been completed he shall be and shall continue subject to the provisions of this Ordinance.

Transfer of contract of service to new proprietor or manager of estate.

25 If the estate upon which any agricultural servant or journeyman artificer is employed under any contract to serve for a period exceeding one month shall, during the pendency of such contract, become vested in or be transferred to or placed under the superintendence or management of any person other than the person with or by whom such contract was entered into, such contract and all the rights and liabilities incidental thereto shall be deemed in law to be transferred to the person in or to whom the said estate shall become vested or transferred as aforesaid, or under whose superintendence or management the said estate shall be placed as aforesaid, and such last-mentioned person and such servant or artificer shall be respectively bound to perform all the terms and conditions of the contract in the same manner, or as near thereto as the nature of the case will admit, as if the contract had been originally entered into between such person and such servant or artificer: Provided always that in case such estate shall become vested in or transferred to any person other than the person with whom

Digitized by Google

such contract shall have been entered into, such servant or journeyman artificer shall thereupon be entitled to determine such contract, if he shall so elect, and give notice of such being his intention to the person in whom the estate shall have become vested or to whom it shall have been transferred, and shall receive all wages then due to him under or by virtue of such contract: Provided, however, that the last-mentioned proviso shall not be held to apply to cases where estates are held in partnership by several persons, and where one or more of the partners retire from the partnership, or when, on such retirement, other partner or partners shall take the place of the retiring partner or partners, one or more of the original partners who were parties to the contract continuing in the partnership.

Proviso.

Penal provisions of this Ordinance not to affect civil actions.

26 Neither the alleged commission of any crime or offence by any person or persons under the provisions of this Ordinance, nor the conviction nor acquittal of any person or persons of any crime or offence under this Ordinance, shall be a bar to any civil action for damages against such person or persons at the instance of any person or persons who may have suffered any injury, or who may allege that he or they has or have suffered any injury from or by reason of the commission of any such crime or offence.

Employer bound to find lodging, food, and medical care to sick coolies.

27 Any servant who shall be incapacitated by sickness from labour whilst in the service of any employer shall be entitled to lodging, food, as well as medical care, at the expense of such employer during such incapacity; provided that the employer shall not be bound to pay to the servant during such period his wages in addition: Provided further, that nothing herein contained shall prevent the employer from determining the contract under the 10th section of this Ordinance in case the servant shall become permanently disabled from completing his contract.

Commencement of Ordinance.

28 This Ordinance shall come into operation from the date fixed by the Governor in the Proclamation notifying the confirmation of this Ordinance by Her Majesty.

SCHEDULE.

Ordinances repealed.

No. and Date of Ordinance.	Title.
5 of 1841 ...	"For the better regulation of Servants, Labourers, and Journeymen Artificers under contracts of Hire and Service and of their Employers."
14 of 1845 ...	"An Ordinance relating to written contracts for the Hire and Service of Pioneers and others in the employment of certain Departments of Government."
13 of 1858 ...	"To amend and explain the Ordinance No. 5 of 1841."
20 of 1861 ...	"An Ordinance relating to contracts for the Hire and Service of Labourers in this Colony."
15 of 1863 ...	"An Ordinance to amend the Ordinance No. 14 of 1845."
16 of 1863 ...	"An Ordinance to extend the operation of the Ordinance No. 20 of 1861."

21st October, 1865.

Digitized by Google

No. 13 of 1889.

(*As amended by No. 7 of 1890.*)

An Ordinance amending the Law relating to Indian Coolies employed on Ceylon Estates.

Preamble.

WHEREAS it is expedient to amend in the particulars hereinafter mentioned the Ordinance No. 11 of 1865: And whereas it is expedient to repeal the Ordinance No. 17 of 1862 and the Ordinance No. 16 of 1884, and to make more suitable provisions in lieu of those contained therein: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Repeal.

1 There shall be repealed as from the commencement of this Ordinance—

(*a*) The Ordinance No. 17 of 1862, intituled "An Ordinance to ascertain the proportion of Mortality amongst the Natives of India employed in Agricultural and other Labour in Ceylon;"

(*b*) The Ordinance No. 16 of 1884, intituled "An Ordinance to amend the Ordinance No. 11 of 1865, intituled 'An Ordinance to consolidate and amend the Law relating to Servants, Labourers, and Journeymen Artificers under Contracts for Hire and Service,' and to provide for the speedy recovery of Wages due to Labourers."

Proviso.

Provided that this repeal shall not affect—

(*a*) Any penalty, ferfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed; nor

(*b*) The continuance of any legal proceeding already instituted, and which may be pending under any enactment so repealed, for the recovery of any wages due, or penalty incurred, before the commencement of this Ordinance.

To be read as one with the Ordinance No. 11 of 1865.

2 This Ordinance shall, so far as is consistent with the tenor thereof, be read and construed as one with the Ordinance No. 11 of 1865, hereinafter referred to as "the principal Ordinance."

Interpretation clause:

3 For the purposes of this Ordinance—

"Estate."

"Estate" means any land in which labourers are employed, and of which ten acres or more are actually cultivated.

"Labourer."

"Labourer" means every labourer and kangani (commonly known as "Indian coolies") employed on an estate in other than domestic labour.

"Wages."

"Wages" means all sums which may be due to a labourer for and in respect of the work and labour done by him on an estate.

"Employer."

"Employer" means the chief person for the time being in charge of an estate, and includes the superintendent.

Certain provisions of the principal Ordinance extended to labourers and employers and to acts and defaults of third parties in respect of or in relation to them.

4 Except as in this Ordinance otherwise expressly provided, all the provisions, regulations, pains, penalties, forfeitures, and abatements enacted in the principal Ordinance, so far as they are applicable to monthly servants or their employers, shall extend, and be construed, deemed, and adjudged to extend, to labourers and employers under this Ordinance; and every act or default, by whomsoever done or committed, which is made punishable by the principal Ordinance, if made or committed in respect of, or in relation to, monthly servants or their employers, shall in the like manner be punishable if done or committed in respect of, or in relation to, labourers and employers under this Ordinance.

Digitized by Google

5 Every labourer who shall enter into a verbal contract with the employer for the performance of work not usually done by the day or by the job or by the journey, or whose name shall be entered in the check-roll of an estate and who shall have received an advance of rice or money from the employer, shall, unless he has otherwise expressly stipulated, and notwithstanding that his wages shall be payable at a daily rate, be deemed and taken in law to have entered into a contract of hire and service for the period of one month, to be renewable from month to month; and every such contract shall be deemed and taken in law to be so renewed unless one month's previous notice be given by either party to the other of his intention to determine the same at the expiry of one month from the day of giving such notice.

Verbal and implied contracts of service.

6 (1) The wages of a labourer shall be payable monthly within *sixty days from the expiration of the month during which such wages shall have been earned*, and when such wages shall be payable at a daily rate the monthly wages shall be computed according to the number of days on which the labourer shall have been able and willing to work, whether the employer may or may not have been able to provide him with work. Provided that no employer shall be bound to provide for each labourer more than six days' work in the week.

Wages how payable and how computed.

[§ *1, 7 of 1890*]

(2) When the contract of service is determined by one month's previous notice or warning by the labourer to the employer or by the employer to the labourer, all wages due to the labourer for his period of service shall be paid in full to him by the employer on the day when such contract is so determined as aforesaid.

(3) In computing the amount of wages due to a labourer for any period of service, such labourer shall be debited with the amount of all advances of money made to him, and with the value of all food, clothes, or other articles supplied to him during such period, and which the employer is not liable in law to supply at his own expense.

7 No labourer shall be liable to punishment for neglecting or refusing to work, or for quitting service without leave or reasonable cause, or for disobedience, or for neglect of duty, if at the time of such alleged offence *the monthly wages earned by him shall not have been paid in full within the period specified in sub-section (1) of section 6.*

Exemption from punishment when wages are overdue.

[§ *2, 7 of 1890*]

8 No contract of service entered into with a labourer for any period of time longer than one month shall be valid in law unless the same is executed in all respects in strict accordance with the requirements of the principal Ordinance as to written contracts; and all written contracts between labourers and employers shall be subject to, and governed by, the provisions of the principal Ordinance relating to written contracts.

Written contracts.

9 Labourers employed on an estate shall, anything in the Ordinance No. 22 of 1871 to the contrary notwithstanding, have in respect of their wages, whatever the period for which such wages may be due, but not exceeding the sum of twenty rupees earned by each labourer, a first charge upon such estate, and such first charge shall have priority over all claims for rents, dues, or otherwise by any lessors, mortgagees, judgment, execution or other creditors, or by any other persons whatever; and such first charge may be enforced by suit or by claim if instituted or preferred within three months of the last day of the period in respect of which such wages are claimed.

Wages made a first charge on estate.

10 The wages due to any labourer or labourers, whatever may be the amount claimed, shall be sued for in a court of requests having in other respects jurisdiction in that behalf; and it shall be lawful for one or more labourers employed on such estate to institute one suit to recover the wages which may be due, not only to him or them, but also to any other labourer or labourers employed on the same estate

Wages may be sued for in court of requests whatever the amount.

Labourers may

Digitized by Google

sue jointly in one suit.

whose name or names may appear in the plaint, provided that the court in which the suit is instituted is satisfied, after due inquiry, that the labourer or labourers suing is or are authorized to sue for and on behalf of the other or others so named as aforesaid.

Proprietor of estate to be party defendant.

11 In any suit instituted under this Ordinance it shall be sufficient to designate the defendant as the "proprietor of the ——— estate," specifying the name of the estate on which the labourer had been employed, without naming the proprietor or proprietors thereof.

Party sued may claim set-off.

12 The party sued or his representative, or any other person allowed by the court to intervene in such suit, shall be entitled to a set-off or counter-claim in respect of any sum of money, or the fair and reasonable price of any food, clothes, or other articles which the employer was not liable in law to supply at his own expense, but which money, food, clothes, or other articles had been advanced or supplied to the labourer or labourers as against the wages for which he or they may be suing.

Right of mortgagee.

13 It shall be lawful for a mortgagee of an estate to pay and discharge the first charge created by this Ordinance in respect of such estate in favour of the labourers employed thereon; and upon such payment he shall be entitled to add the amount thereof to the sum due upon his mortgage; and the amount so added shall be secured by the mortgage held by him.

Proprietor may obtain judgment in same suit against others who have actually employed the labourers.

14 When the proprietor of an estate is sued under this Ordinance, and he shall by proof adduced satisfy the court that he did not by himself or by his agent or agents employ all or any of the labourers who are suing him, but that they or any of them were employed on such estate by some other person as trustee, lessee, or mortgagee in possession, he shall be entitled, upon application by him made for that purpose, to have such other person made a party defendant in the same suit at any time before execution is levied, provided that such other person shall have had reasonable notice of such application, and shall have failed to show cause why he should not be joined in the suit. And the court shall, if satisfied that such other person was primarily liable to pay the amount of wages sued for wholly or in part, and that the same has since the institution of the suit been paid and satisfied by such proprietor, enter a separate judgment therefor as between the proprietor and such other person with such reasonable costs as it may think fit, and enforce such judgment against such other person by a writ of execution.

Proviso.

Provided, however, that no proceedings had as between such other person and such proprietor as aforesaid shall be permitted in any way to delay the progress of the suit as between the labourers and such proprietor.

Procedure.

15 The rules and orders in schedule A hereto shall apply to suits instituted under this Ordinance; and upon any matter not specially provided therein, including the payment of costs, the general rules and orders for courts of requests shall be followed in so far as the same may be applicable.

Employers to send returns to government agent.

16 Every employer shall, on the tenth day of January, on the tenth day of April, on the tenth day of July, and on the tenth day of October of each year make to the government agent of the province in which the estate is situate, or to some other public officer who may be appointed by the Governor for that purpose, and of whose appointment a notice shall be published in the *Government Gazette*, true and correct returns, for and in respect of the three months next immediately preceding each of the said four months, containing each and every of the particulars set forth in the form given in schedule B hereto. The returns shall be made in the English language, and copies of the said form shall be furnished by such government agent on the application of the employer free of charge.

Forms of returns to be supplied gratis by government agent.

Digitized by Google

Provided that if any of the aforesaid days shall be a Sunday or public holiday, the said returns and declaration shall be made on the next following day not being a public holiday. Proviso.

17 Any employer who shall refuse or neglect to make any returns by this Ordinance required to be made, in the form and on the days herein specified, shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding one hundred rupees; and the production of a certificate under the hand of the government agent, to the effect that no returns have been received by him from the person charged, shall in all judicial proceedings be *primâ facie* evidence of such person having refused or neglected to make such returns, as the case may be. Offences. Penalty. Evidence.

18 The government agent or such other officer as aforesaid shall forward all such returns to the Colonial Secretary, who shall, so soon as convenient, publish or cause to be published, in the *Government Gazette*, a general abstract of the returns received for any one quarter, in such form as the Governor, with the advice of the Executive Council, shall from time to time require. And an annual general abstract of all such returns for each year shall be laid before the Legislative Council. Returns to be sent to Colonial Secretary. General abstracts to be published, and laid before Legislative Council.

SCHEDULE A.

Rules and Orders.

1. The suit shall commence by the filing of a plaint setting out the period or proximate period for which wages are due to the plaintiff, or to each of the plaintiffs if there be more than one plaintiff; and thereupon the chief clerk shall issue a summons directed to the defendant requiring him to appear before the court on a day therein named, to answer the claim of the plaintiff or plaintiffs, and shall at the same time issue a subpœna to the superintendent of the estate requiring him on the same day as that named in the summons to attend and bring with him the check-rolls and any other documents which may be specified in such subpœna, and shall at the same time cause a notice in form hereunto annexed to be published in the *Government Gazette* of the two following weeks. Commencement of suit by filing plaint. Issue of summons to defendant and subpœna to superintendent.

2. The summons directed to the defendant shall be served upon the superintendent, or, if the commissioner so directs, shall be affixed to a conspicuous part of the estate, and such service shall be deemed to be good and sufficient service on the defendant; and in every case the chief clerk shall post a copy of such summons to the superintendent directed to such estate. It shall be competent for such superintendent to appear for and represent the defendant in the said suit, and to adduce evidence therein. Service of summons prescribed, superintendent may represent proprietor.

3. On the day named in such summons, or on any other day to which the commissioner may adjourn or postpone the inquiry, he shall summarily hear and determine the suit and give judgment thereon for such sum or sums as the plaintiff or plaintiffs may be found entitled to; and in determining the sum due to the plaintiff, or if there be more than one plaintiff, the sum due to each of the plaintiffs, the commissioner shall apply any payments, whether in money or in food, clothes, or other articles proved to have been made in partial discharge of wages, towards the payment of the antecedent wages in the order of time in which the same became due, and the commissioner shall in his judgment specify the extent to which the first charge shall apply, and shall declare the estate bound and executable for and in respect of such first charge. Investigation.

Digitized by Google

Proviso. Provided, however, that if the commissioner be satisfied that the sale of any definite portion of the said estate shall be sufficient to satisfy the first charge, he may, in the first instance, order accordingly.

Formal decree. 4. As soon as may be after the judgment is pronounced a formal decree bearing the same date as the judgment shall be drawn by the commissioner in the form hereto annexed, specifying (1) the total amount due to the plaintiffs and (2) the amount for which the estate is bound and executable for and in respect of the first charge.

Two separate writs may issue. 5. The commissioner on non-payment of the amount of the first charge shall issue a writ in the form I. hereunto annexed, and on non-payment of the balance (if any) due under the decree shall issue a writ in the form II. hereunto annexed, which writs may issue simultaneously or independently of each other.

Judgment how satisfied. 6. The judgment in the suit shall not be declared satisfied or discharged save by payment into court of the total amount decreed, or by deposit in court of such amount by levy in execution ; and when such judgment shall be satisfied by payment into court, or when payment shall be made of the first charge, the commissioner shall issue a certificate to that effect under his hand to the person making such payment.

Conveyance by fiscal. 7. The fiscal shall execute a conveyance of the said estate or part thereof on sale in execution in favour of the purchaser in the form hereto annexed, and the same shall be sufficient to vest title in the purchaser free from all encumbrances.

Distribution of sum deposited. 8. Upon the payment into or deposit in court of the amount decreed or levied, the commissioner shall pay or distribute the same to or among the plaintiff or plaintiffs adjudged to be entitled thereto, and make a record thereof.

Intervention by mortgagee. 9. It shall be competent for any mortgagee or any other person interested in the suit to intervene therein, if allowed by the court to do so.

Notice.

Notice. Notice is hereby given that a suit has been instituted in the Court of Requests of ———, by (*insert number*) labourers of ——— estate, against the proprietor or proprietors thereof, under the Ordinance No. 13 of 1889, for the recovery of their wages, amounting to ——— rupees.

This ——— day of ———, 18—.

———
Chief Clerk.

Form of Decree.

Decree. It is ordered and decreed that the proprietor of the ——— estate do forthwith pay into court for the use of the plaintiffs the sum of ——— rupees, and that the said ——— estate (*or if a portion only of the estate is declared bound and executable, here describe definitely the said portion of the estate*), bounded or reputed to be bounded on the north by ———, east by ———, south by ———, and west by ———, containing in extent ——— acres, is bound and executable to the plaintiffs for a first charge to the extent of ——— rupees.

It is further ordered and decreed that the proprietor of the said estate do pay to the plaintiffs the costs of this action.

Digitized by Google

Form of Writ, I.

In the Court of Requests of ———.

———, Plaintiff.

Vs.

Proprietor of ——— Estate, Defendant.

To the Fiscal of the ——— Province.

Writ of execution against estate for first charge.

Whereas by a judgment pronounced by the Commissioner of the Court of Requests of ———, in case No. ———, it was ordered and decreed that the proprietor of the ——— estate do pay into court, in the said suit, the sum of ——— rupees, and the said ——— estate (hereinafter described) was thereby declared bound and executable for a first charge to the amount of ——— rupees; and whereas the proprietor of the said ——— estate hath made default in paying the said amount:

Levy and make of the said estate, bounded or reputed to be bounded on the north by ———, east by ———, south by ———, and west by ———, containing in extent ——— acres, declared by the judgment of this court bearing date the ——— day of ———, bound and executable for a first charge to the extent of ——— rupees, by seizure, and, if necessary, by sale thereof (*or* part thereof to be defined) the sum of ——— rupees, and have that money before this court on the ——— day of ———, to render to the said ———, and inform this court for what sum or sums, and to what person or persons, you have sold the said estate (*or* part thereof), and have you there this mandate.

By order of court,

———

Chief Clerk.

Form of Writ, II.

In the Court of Requests of ———.

———, Plaintiff.

Vs.

Proprietor of ——— Estate, Defendant.

To the Fiscal of the ——— Province.

Writ for unsecured balance.

Whereas by a judgment pronounced by the Commissioner of the Court of Requests of ———, in case No. ———, it was ordered and decreed that the proprietor of the ——— estate do pay into court the sum of ——— rupees, of which sum the sum of ——— rupees was declared a first charge on the ——— estate, and the balance sum of ——— rupees has not been paid into court:

Levy and make of the houses, lands, goods, and credits of the proprietor of the said ——— estate, by seizure, and, if necessary, by sale thereof, the sum of ——— rupees, and have the money before this court on the ——— day of ———, to render to the said ———, and inform this court for what sum or sums, and to what person or persons, you have sold the said property respectively, and have you there this mandate.

By order of court,

———

Chief Clerk.

Form of Conveyance by Fiscal.

Conveyance by fiscal.

Whereas by a judgment pronounced by the Commissioner of the Court of Requests of ———, in case No. ———, it was ordered and decreed that the proprietor of the ——— estate do pay into court, in the said suit, the sum of ——— rupees, and the said estate (hereinafter described) was thereby declared bound and executable for a first charge to the amount of ——— rupees: And whereas

Digitized by Google

the proprietor of the ——— estate hath made default in paying the said amount, and by writ of execution issued from the said court bearing date ———, directed to the Fiscal for the ——— Province, he was directed to levy the said amount by the sale of the said estate (*or* part thereof, *as the case may be*): And whereas the said estate (*or* part thereof) was seized in execution under the said writ, and after due notice was exposed to public sale on the ——— day of ———, at ———, by ———, acting under the authority of the said Fiscal, and sold to ——— as the highest bidder for the sum of ——— rupees, and the said ——— has paid the said sum to the said Fiscal: Now these presents witness that ———, the said Fiscal for the ——— Province, in consideration of the said sum of ——— rupees paid by the said ———, the receipt whereof the said Fiscal doth hereby acknowledge, hath sold and assigned, and doth by these presents sell and assign, unto the said ———, his heirs, executors, administrators, and assigns the ——— estate, bounded or reputed to be bounded on the north by ———, east by ———, south by ———, and on the west by ———, containing in extent ——— acres, and described in the map or diagram annexed, to have and to hold the said estate with its and every of its appurtenances by him the said ———, his heirs, executors, administrators, and assigns, for ever free from all incumbrances.

In witness whereof the said Fiscal hath hereunto inscribed his name at ———, this ——— day of ———, in the year of our Lord One thousand Eight hundred and ———.

Witnesses. ——— Signature of Fiscal.

SCHEDULE B.

I.—Return of Labourers employed on the ——— Estate, in the District of ———, during the Quarter ended ———, 18—.

	Male.	Female.
Number of Labourers ...		

II.—Return of Births occurring among Labourers upon the above Estate during the Quarter.

Date of Birth.	Mother's Name.	Father's Name.

III.—Return of Deaths occurring among Labourers upon the above Estate during the Quarter.

Name.	Age.	Sex.	Name of Village.	Date of Death.	Probable cause of Death.

31st October, 1899.

Digitized by Google

No. 7 of 1890.

An Ordinance to amend the Ordinance No. 13 of 1889, relating to Indian Coolies employed on Ceylon Estates.

WHEREAS it is expedient to amend the Ordinance No. 13 of 1889, intituled "An Ordinance amending the Law relating to Indian Coolies employed on Ceylon Estates," and hereinafter referred to as "the principal Ordinance:" Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows : Preamble.

1 In sub-section (1) of section 6 of the principal Ordinance, for the words "the first three days of every month for the month or portion of the month last preceding" shall be substituted the words "sixty days from the expiration of the month during which such wages shall have been earned." Amendment of sub-section (1), section 6, of Ordinance No. 13 of 1889.

2 In section 7 of the principal Ordinance, for all the words after the words "such alleged offence" shall be substituted the words "the monthly wages earned by him shall not have been paid in full within the period specified in sub-section (1) of section 6." Amendment of section 7 of Ordinance No. 13 of 1889.

3 The principal Ordinance shall, as from the commencement of this Ordinance, take effect subject to the substitutions required by this Ordinance, but nothing in this Ordinance shall affect the validity of any act done, right acquired, or liability incurred under the principal Ordinance before the commencement of this Ordinance. Construction of Ordinance No. 13 of 1889.

4 This Ordinance shall come into operation at such time as the Governor shall, by Proclamation to be published in the *Government Gazette*, appoint.* Commencement.

22nd May, 1890.

No. 16 of 1865.

An Ordinance to provide for the establishment and regulation of a Police Force in this Island.

(*As amended by No. 7 of 1866, No. 5 of 1867, No. 19 of 1871, No. 3 of 1875, No. 7 of 1880, No. 23 of 1891, and No. 4 of 1897.*)

(*See No. 16 of 1867, No. 6 of 1873, No. 1 of 1878, No. 13 of 1884, and No. 11 of 1886.*)

WHEREAS it is expedient to provide for the establishment and regulation of a police force in this island : It is enacted as follows : Preamble.

Preliminary.

1 This Ordinance may be cited for all purposes as "The Police Ordinance, 1865." Short title.

2 This Ordinance shall come into operation on the First day of January, One thousand Eight hundred and Sixty-six. Commencement.

3 The Ordinances set out in the schedule A hereto annexed are hereby repealed, except so far as respects all offences which may have been heretofore committed against the same or any of them, all rights which shall have accrued, liabilities which shall have been incurred, acts which shall Repeal of former Ordinances.

* Proclaimed the 15th day of August, 1890.

Digitized by Google

have been done, and all proceedings or matters which shall have taken place before this Ordinance shall come into force.

Provision for future repeal of certain local laws.

4 So soon as this Ordinance shall come into operation in Jaffna and Mannar, the regulations set out in the schedule B hereto annexed, with reference to each place, shall be repealed, except as in the preceding section excepted.

Laws and customs repugnant to this Ordinance repealed.

5 So soon as any of the provisions of this Ordinance shall be brought into operation within any town, village, or limits, or part of any town or village, all laws, customs, and usages which may then be in force therein, so far as they are in anywise repugnant to or inconsistent with the provisions of this Ordinance, shall be revoked, abrogated, and repealed.

Interpretation.

6 The following words and expressions in this Ordinance shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant to such construction :

The expression "government agent" shall include the assistant government agent of the province, or, where there is any assistant government agent for the district in which any proceeding contemplated by this Ordinance is taken, such assistant government agent :

The word "town" shall include any village or limits set out for the purposes of this Ordinance :

The expression "police officer" shall include the chief superintendent of police, inspectors, sergeants, and constables :

The word "person" shall include a company or corporation :

The word "cattle" shall, besides horned cattle, include horses, asses, mules, sheep, goats, and swine.

General Police Force.

Establishment of police force.

7 It shall be lawful for the Governor, with the advice and consent of the Executive Council, from time to time, as occasion may require, to establish, by Proclamation in the *Government Gazette*, a police force for the effectual protection of person and property within such towns as to them shall appear to require the same. Whenever such force shall be so established within any town this Ordinance shall come into operation therein: Provided that no Proclamation shall be necessary to establish the force in places where the same shall have been already established under the Ordinance No. 17 of 1844,* in which said places this Ordinance shall come into operation on the day in the second section mentioned.

Police force may be established in certain places, though not maintained as herein provided.

8 It shall be lawful for the Governor, with the advice and consent of the Executive Council, by Proclamation in the *Government Gazette*, to establish a police force in any place other than large towns, though such force be not maintained in the manner prescribed by this Ordinance, and to declare that certain of the provisions of this Ordinance shall come

* Repealed by this Ordinance,

Digitized by Google

into operation at such place, specifying the limits thereof, and such Proclamation from time to time to revoke, alter, or amend.

9 It shall be lawful for the Governor, with the advice and consent of the Executive Council, to establish a police force in any rural district, and to cause the same to be maintained in the manner hereinafter prescribed.

Police in rural districts.

10 It shall be lawful for the Governor, with the advice and consent of the Executive Council, by Proclamation in the *Government Gazette*, to quarter police, or, should a police force have been already established there, to increase the same, in any part of the island which shall be found to be in a disturbed or dangerous state, or in any part in which, from the misconduct of the inhabitants (whether in harbouring offenders or suspected persons, refusing to aid in their apprehension, or otherwise), they may deem it expedient so to do; and the inhabitants of the part of the island in which the police or the additional number of men as aforesaid shall be so quartered, shall be charged with the cost of the men; and the government agent to whose province such part belongs, but not any assistant government agent, shall assess the proportion in which such cost is to be paid by the inhabitants according to his judgment of their respective means.

Quartering of police in disturbed or dangerous districts, or districts the inhabitants of which misconduct themselves.

11 Whenever any railway or other large work, or any manufactory or commercial concern, shall be carried on or be in operation in any part of the country, and it shall appear to the Chief Superintendent or any provincial inspector that the appointment of an additional force in such neighbourhood is rendered necessary by the behaviour or reasonable apprehension of the behaviour of persons employed upon such work, it shall be lawful for the Chief Superintendent of Police or provincial inspector, with the advice and consent of the Governor and Executive Council, to direct the employment of such additional force, and to maintain the same so long as such necessity shall continue, and to make orders from time to time upon the person having the control or custody of the funds of any company or person carrying on such works for the payment of the extra force so rendered necessary as aforesaid.

Additional force in the neighbourhood of railway and other works.

[*See* § *2, 7 of 1866*]

12 It shall be lawful for the Governor, with the advice and consent of the Executive Council, by Proclamation in the *Government Gazette*, *from time to time* to declare that such of the provisions of this Ordinance as to *him* may seem advisable shall come into operation *throughout the island, or in any province, district, town, or* place as shall appear to *him* to require the same, though there be no police force established therein.

Some of the provisions only of this Ordinance may be brought into operation in any place.

[§ *2, 4 of 1897*]

13 The Proclamation establishing a police force in any town shall also specify and define the limits of such town, and it shall be lawful for the Governor, with the advice and consent of the Executive Council, from time to time as occasion may require, by Proclamation, to alter or vary such limits.

Definition of limits.

Digitized by Google

Police Force.

Police in Rural Districts.

Interpretation clause.

14 For the purposes of the present division of this Ordinance, the word "proprietor" shall mean the sole or any joint owner of an estate, and the word "estate" shall mean a tract of land exceeding twenty-five acres, belonging to one person or to several persons, cultivated or uncultivated, and forming a separate or distinct property.

Applications to bring districts under the operation of this Ordinance.

15 The proprietor of any estate situated in any district or locality may make application, in writing, to the government agent of the province in which such estate is situated that a police force should be established in the said district, and shall set forth in such application the name of the district, the names of all estates therein, the names of the proprietors, or (if the same be unknown) of the resident managers thereof, the probable extent of the land belonging to such estates, and the number of men to form the force which, in the opinion of the applicant, will be required to be stationed therein for the purposes of the district.

Proceedings thereon.

16 On receipt of such application, the government agent shall give such public notice as he thinks necessary of his intention to define the limits of the district, the estates in which will, if the proposal to establish a police force in the said district be adopted by the proprietors of at least two-thirds of the acreage of the estates in any such district as hereinafter provided, become and be severally bound and liable for the amount of contribution towards the maintenance of the police force which the said estates may be afterwards assessed at, in manner provided by this Ordinance; and in such notice the government agent shall appoint the time and place when and where he will attend to receive, inquire into, and consider the objections of any proprietor against his estate being included within the limits of such district; and the said government agent, after making such inquiry as he may deem requisite, and considering any such objections, shall proceed to define the limits of such district, and shall enter a description of such limits in the minutes of his proceedings, and shall thereupon transmit a requisition to the proprietor of every estate within the limits of such district so defined as aforesaid (or, in case of his absence from the colony, to the resident manager, or, if there be no resident manager, to the agent in this colony of the proprietor, if any, or if there be no known agent, shall cause requisition to be affixed in some conspicuous part of the estate), calling upon him to declare in writing, within such time as shall be therein specified, whether he desires that a police force should be established in the said district, and to specify the clauses of the Ordinance which ought, in his opinion, to be introduced therein. If no answer be sent to the government agent within the time limited by such requisition, the person to whom the same was forwarded shall be deemed and taken to have concurred in the proposal referred to therein.

Digitized by Google

Police Force.

17 If it shall appear to the government agent, from the replies to such requisitions, or otherwise, as aforesaid, that a majority, consisting of the proprietors of at least two-thirds of the acreage of estates in any district, are desirous that a police force should be established in the said district, the said government agent shall forthwith forward such application to Government, together with his report as to the necessity for locating a police force in the district, and as to the number of men to compose such force, and the amount in money required for its upkeep; and thereupon it shall be lawful for the Governor, with the advice and consent of the Executive Council, by Proclamation in the *Government Gazette*, to establish a police force in such district, from such time as shall be therein named, and to introduce such of the clauses as the Governor and Council shall consider expedient in such district, and such clauses shall accordingly come into force at the time so named. The Governor may, with the like advice and consent as aforesaid, revoke, alter, or amend such Proclamation.

If two-thirds concur, the application to be forwarded to Government with agent's report.

Proclamation thereon.

18 On such Proclamation being made, the government agent shall proceed to assess the proportion due by each estate, by dividing the sum of money equal to a moiety of the total cost of maintaining such force in the district by the total number of acres of the estates in the district, and thus apportioning the amount due by each estate; and the rate so assessed shall be binding and conclusive on all proprietors of estates in such district; and the government agent shall thereupon transmit a notice to the proprietor of each estate (or in case of his absence from the colony, to the resident manager, or, if there be no resident manager, to the agent in this colony of the proprietor, if any, or if there be no known agent, he shall cause such notice to be affixed in some conspicuous part of the estate), informing him of the yearly amount of contribution due by him to make up the proportion payable by the district, and the date when the first quarterly instalment is payable as hereinafter provided.

The government agent to assess the share to be contributed by each estate.

19 The amount due by each estate for a year shall be payable in advance by quarterly instalments, the first instalment on such day as shall be fixed in the notice above mentioned, and the other instalments at the commencement of each successive quarter.

Date of payment of contribution.

20 If the amount so due as aforesaid shall not be paid when due, the same shall be recovered in the manner provided by the 41st, 42nd, 43rd, 44th, and 45th sections of this Ordinance.

Mode of recovery in case of default.

21 Should it be found necessary at any time after the original assessment to alter the limits of any district, or to reduce or increase the force therein, it shall be lawful for the Governor, with the advice and consent of the Executive Council, to do so; and the government agent shall give the same notice of such alteration, and of the new rates payable in consequence, as he is herein required to give of the

Alteration of district on assessment.

Digitized by Google

original proceedings; and such notice shall be served and such new rates recovered in the same way as are herein prescribed in respect of the original notice and rates.

Discontinuance of force in any district.

22 For the purpose of discontinuing the police force when introduced into any district under this Ordinance, the same course shall be taken as is prescribed in this Ordinance for its introduction, and if the demand for its withdrawal be adopted by the proprietors of two-thirds of the acreage, the said government agent shall forthwith notify to Government that the required majority is in favour of the withdrawal of the police force; and thereupon it shall be lawful for the Governor, with the advice and consent of the Executive Council, by Proclamation in the *Government Gazette*, to direct that the employment of the said police force in the said district shall cease and determine from the date fixed in the Proclamation. But nothing herein contained shall prevent proceedings being afterwards taken for the re-establishment of a force in the manner recognized by this Ordinance for the original establishment of a force in any district.

Its re-establishment.

Police Officers.

23 Repealed. See section 3 of No. 7 of 1866.

Appointment of principal officers.

24 It shall be lawful for the Governor from time to time, as occasion may require, subject to the pleasure of Her Majesty, her heirs and successors, to appoint the Chief Superintendent of Police* and provincial and district inspectors, who shall hold office during pleasure.

Appointment of minor officers.

25 It shall be lawful for the Chief Superintendent of Police to nominate and appoint such and so many sergeants and constables as the Governor shall direct; and, if need be, subject to the approbation of the Governor, and to the rules to be made as hereinafter provided, to dismiss, suspend, reduce, or fine to any amount not exceeding one month's pay, any such officer whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

Additional police officers to be employed at the cost of individuals.

26 It shall be lawful for the Chief Superintendent of Police, or any provincial inspector, if he shall think fit, on the application of any person showing the necessity thereof, to appoint any additional number of police officers to keep the peace, at the charge of the person making the application, but to be under the orders of the Chief Superintendent or provincial inspector, and for such time as they shall think fit: Provided that it shall be lawful for the person on whose application such appointment shall have been made, on giving one month's notice in writing to such Chief Superintendent or provincial inspector, to require that the officer so appointed shall be discontinued, and such person shall be relieved from the charge of such additional force from the expiration of such notice.

Proviso.

* Called "Inspector-General of Police" by section 2 of Ordinance No. 16 of 1867.

Digitized by Google

Police Force.

27 If upon demand any person refuses or fails to pay the sum due by him for maintaining the .... force under the 10th, 11th, and 26th sections, the Chief Superintendent, or provincial inspector shall report such refusal or failure to the nearest police court, which shall proceed to recover such sum as if it were a fine imposed by that court.

Recovery of expense under the 10th, 11th, and 26th sections.

[§ *1, 7 of 1880*]

28 When it shall appear that any tumult, riot, or outrage has taken place, or may be reasonably apprehended in any place, and that the ordinary police officers appointed for preserving the peace are not sufficient for its preservation and for the protection of the inhabitants and for the security of property in such place, it shall be lawful for any justice of the peace to appoint so many of the public or residents in the neighbourhood as may be required to act as special police officers for such time and in such manner as he shall deem necessary.

Special police officers.

29 Every special police officer so appointed shall have the same powers, privileges, and protection, and be liable to all such duties and penalties, and be subordinate to the same authority as the ordinary officers of police.

Powers of special police officers.

30 If any person being appointed a special police officer as aforesaid shall, without sufficient excuse, neglect or refuse to serve as such, or to obey such lawful order or direction as may be given him for the performance of his duties, he shall be guilty of an offence, and be liable to a fine not exceeding five pounds for every such neglect, refusal, or disobedience.

Refusal to serve.

31 No police officer shall be at liberty to resign his office or withdraw himself from the duties thereof, unless expressly allowed to do so in writing by the Chief Superintendent or provincial inspector, or unless he shall have given to his superior officer two months' notice in writing of his intention to do so; nor shall any such police officer engage in any employment or office whatever other than his duties under this Ordinance, unless expressly permitted to do so in writing by the Chief Superintendent.

Police officers not to resign without leave or two months' notice.

32 *It shall be lawful for the Governor to place a police force established in any district, rural district, town, or place, or in the neighbourhood of any railway and other works, under the control of any public officer having authority in such district, rural district, town, place, or neighbourhood, or in the province wherein such district, rural district, town, place, or neighbourhood is situated; and such public officer shall in such case exercise the powers herein vested in police officers not under the grade of inspectors. Provided that nothing herein contained shall be held to interfere with the general supervision of the Inspector-General of Police over the entire force and all officers thereof, subject to rules and regulations to be made by the Governor.*

Police force may be placed under the control of a public officer.

[§ *1, 23 of 1891*]

Maintenance of General Police.

33 The salaries of the Chief Superintendent of Police and of the provincial inspectors, the cost of barracks, hospitals, medical attendance, and arms will be defrayed by

Expenses of police.

Digitized by Google

the Government. All other expenses must be defrayed by the inhabitants of the towns for the protection of whose persons and property the police is established, except where a force is created under the 8th section of this Ordinance. The expenses of police in rural districts shall be defrayed in equal shares by the Government and by proprietors of estates in each district as hereinbefore provided: Provided, however, that when any town is created a municipality, the expenses of the police shall be provided for and recovered as directed by "The Municipal Councils' Ordinance, 1865,"* or any other Ordinance to be for that purpose hereinafter enacted.

Proviso.

Tax to be levied for maintenance of police.

34 For the purposes of creating a fund from which the expenses of the police payable by each town not created a municipality are to be defrayed, a tax shall be payable on the 31st day of March, on the 30th day of June, on the 30th day of September, and on the 31st day of December, in every year, for the quarter ending on the said days respectively, on all houses and buildings of every description, and on all lands and tenements whatsoever, within every such town, to an amount equal to such percentage on the *bonâ fide* annual value of such houses, buildings, lands, and tenements, as the Governor, with the advice and consent of the Executive Council, shall by Proclamation from time to time appoint, except in cases where such amount shall fall below the sum of sixpence† per quarter, in all which excepted cases sixpence per quarter shall be assessed and payable: Provided that such tax shall not in the aggregate exceed the sum necessary for the maintenance of the force in such town, except as aforesaid, and which sum it shall be lawful for the Governor, with the advice and consent of the Executive Council, from time to time to determine and appoint: Provided further, that buildings appropriated to religious worship, and such as are placed in charge of military sentries, shall be exempted from the payment of such tax.

Proviso.

35, 36 Repealed by section 5 of No. 7 of 1866.

Mode of assessment.

37 Such committee‡ shall without unnecessary delay after its appointment proceed to inquire into, and according to the best of its information and judgment ascertain and assess as aforesaid the *bonâ fide* annual value of all houses, buildings, lands, and tenements within such town, and the tax hereby imposed on or payable for the same, and for that purpose it shall be lawful for the said committee or any member thereof, or for any person in company with or authorized in writing in that behalf by any such member, to enter any houses, buildings, lands, and tenements, and to cause to enter therein such persons and things as may be necessary, and to proceed to do or cause to be done therein all such things as may be necessary to enable such committee to ascertain the annual value of such houses, buildings, lands,

* Repealed. See section 5, No. 7 of 1887.

† Governor may reduce minimum rate to fifty cents per annum, payable half-yearly, by section 1 of No. 19 of 1871.

‡ Committee of assessors. See No. 7 of 1866.

Digitized by Google

or tenements; and such committee shall without delay report the assessment so made by them to the government agent of the province, who shall thereupon cause the same to be entered in a book which shall have an index or other convenient form of reference, and shall be kept at his office for public inspection. It shall be lawful for the government agent to revise such assessment, and to make such alterations therein as he shall consider expedient.

38 In order to enable the committee to arrive at a fair valuation of any houses, buildings, or lands liable to the rate, it shall be lawful for them to require the owner or occupier of such houses, buildings, or lands to furnish them with returns of the rent or annual value thereof. Whoever refuses or fails to furnish such returns within one week from the day on which he shall have been required to do so, and whoever makes a false or incorrect return, shall be liable to a fine not exceeding five pounds. Power to assessors to call for returns.

39 The tax hereby imposed shall be payable quarterly, and shall be recovered in manner hereinafter provided from the owner or owners, or from any or either of the owners of the houses, buildings, lands, or tenements liable to such tax, and if any person in the occupation of any such house, building, land, or tenement so liable, and not being the owner or a joint owner thereof, shall refuse, upon application being made in that behalf, to inform the said committee or any member thereof, or the government agent or any person authorized by him to make such application, as to the correct name and residence of the owner or owners of the said house, building, land, or tenement, every such person shall be guilty of an offence, and be liable to a fine not exceeding five pounds. Tax to be payable quarterly by owner.

40 The government agent shall, as soon as may be after the commencement of each year, cause to be served upon the owner or some joint owner of every house, building, land, or tenement liable to the payment of the tax imposed by this Ordinance, a notice of assessment, having subjoined thereto a demand of payment of the tax, as near as is material in the form in the schedule C hereunto annexed. Such notice shall be in the English, Sinhalese, or Tamil language, in the discretion of such government agent, and shall be served either personally upon the party to whom it is addressed, or by leaving it with some member of his household, or by affixing it to some conspicuous part of the house, building, land, or tenement liable to the payment of such tax. Notice of assessment and demand of payment of tax to be served.

41 If any person shall not pay the tax due by him under this Ordinance as soon as the same is due, either into the office of the government agent or to some collector authorized by the government agent, by writing under his hand, to collect and receive the same upon demand made by such collector, it shall be lawful for the government agent, and he is hereby thereunto authorized and required, for non-payment of such tax to seize any property whatsoever Proceeding if tax not duly paid. [*See § 1. 6 of 1873*]

Digitized by Google

belonging to the person by whom such tax is due, wheresoever the same may be found within the province of such government agent, and also to seize any movable property, to whomsoever the same may belong, which shall be found in or upon any house, building, land, or tenement for which such tax shall be due; and if the amount due on account of such tax, together with the costs and charges payable by virtue of the 43rd section of this Ordinance, shall not be sooner paid or tendered to such government agent, to sell the property so seized by public auction at any time not less than ten nor more than thirty days from the time of such seizure. It shall be lawful for the government agent or any assistant government agent to authorize any person specially in writing to seize and sell property as herein provided for.

Property may not be seized for arrears of tax beyond two quarters.

Exceptions.

42 It shall not be lawful for the government agent to seize any movable property which may be found in or upon any house, building, land, or tenement in respect of which such tax shall be due, for any arrears of tax due beyond two quarters next preceding such seizure, unless such movable property shall belong to any person who was the owner or a joint owner of the said house, building, land, or tenement at the time the arrears beyond such two quarters accrued and became due; or unless such movable property shall belong to any person who shall have occupied the said house, building, land, or tenement at the time when the said last-mentioned arrears accrued and became due.

Property seized may be removed or a person placed in possession.

43 Any movable property seized as aforesaid may be removed by the government agent for safe custody, pending the sale thereof, to such place as he may think fit; and in case of the seizure of immovable property, or of any property which cannot be conveniently removed, such government agent may place and keep a person in possession thereof pending such sale.

Costs of seizure, &c.

44 It shall be lawful for the government agent to demand, take, and receive from the person by whom the tax is due, or from the owner or any joint owner of any property which may be lawfully seized for non-payment of such tax, the several sums of money mentioned in the following table; that is to say,

Table of Charges incurred in the recovery of Tax.

(1) For cost of proceeding to the house or land of the party in default, in order to seize property, a charge not exceeding one penny for every shilling of tax due.

(2) For removal of the goods seized, in case such removal takes place, a charge not exceeding one penny for every shilling of tax due.

(3) For keeping the same in safe custody in case of such detention, a charge not exceeding one penny per day.

(4) For keeping a person in possession in case of a seizure of immovable property, or if the goods seized are not removed, a charge not exceeding one shilling per day.

Digitized by Google

Police Force.

(5) For the expenses of sale, where any takes place, a charge not exceeding sixpence in the pound on the net produce of the sale.

45 It shall be lawful for the government agent to break open or cause to be broken open, in the daytime, any house or building, for the purpose of seizing property in pursuance of this Ordinance. Houses may be broken open, &c.

46 It shall be lawful for the occupant of any house, building, land, or tenement, not being the owner or joint owner thereof, whose property shall have been seized as aforesaid, or who, to avoid such seizure, or after seizure to avoid a sale of such property, shall have paid the amount of tax due in respect of such house, building, land, or tenement, and the costs demandable by virtue of this Ordinance, to deduct the amount paid by him from the first payment of rent due by him on account of the said house, building, land, or tenement to the owner or owners thereof, and the receipt of the government agent for the amount so paid shall be deemed an acquittance in full for the like amount of rent: Provided always that nothing herein contained shall authorize any such deduction from his rent by any occupant who, by the terms of his lease or other agreement, was himself bound and liable to pay such tax. Tenant paying tax to avoid seizure of his property may deduct it from his rent. Proviso.

47 In the event of a sale of property seized, the government agent shall, after deducting the amount due on account of such tax, and also the costs and charges payable by virtue of the 44th section of this Ordinance (which said costs and charges the government agent is hereby authorized to retain), restore the overplus arising from such sale, if any there be, to the owner or to some joint owner of the property sold; and the government agent shall, upon application in that behalf, grant a receipt for the amount of the tax recovered, and of such costs and charges, to the owner or joint owner of such property. After payment of the tax and charges, overplus accruing from sale to be restored to the owner of the property.

48 If land or other immovable property be sold for non-payment of tax, a certificate substantially in form D in the schedule hereto annexed, signed by the government agent, shall be sufficient to vest the property in the purchaser, any law or custom to the contrary notwithstanding. Such certificate shall be liable to the stamp duty fixed on conveyances of immovable property, and to any registration or other charges authorized by law, such duty and charges being payable by the purchaser. Certificate of sale.

49 Repealed by No. 3 of 1894.

Police Rules.

50 The Chief Superintendent of Police may from time to time, subject always to the approbation of the said Governor and Executive Council, frame orders and regulations for the observance of the police officers who shall be placed under his control as aforesaid, and also for the general The Chief Superintendent of Police may make rules for police.

Digitized by Google

government of such persons, as to their places of residence, classification, rank, and particular services, as well as their distribution and inspection, and all such orders and regulations relative to the said police force as he may deem expedient for preventing neglect or abuse, and for rendering such force efficient in the discharge of its duties; and every police officer who shall neglect or violate any such orders or regulations, or any duty imposed upon him by this or any other Ordinance, shall be guilty of an offence, and be liable to any fine not exceeding five pounds (which fine or any part thereof may be deducted from any salary then or at any time thereafter due to such offender), or to imprisonment with or without hard labour for any period not exceeding one month.

Duties and Liabilities of Police Officers.

Duties of police officers.

51 Every police officer shall for all purposes in this Ordinance contained be considered to be always on duty, and shall have the powers of a police officer in every part of this island. It shall be his duty to use his best endeavours and ability to prevent all crimes, offences, and public nuisances; to preserve the peace; to apprehend disorderly and suspicious characters; to detect and bring offenders to justice; to collect and communicate intelligence affecting the public peace; and promptly to obey and execute all orders and warrants lawfully issued and directed to him by any competent authority.

52 Repealed by No. 3 of 1883, itself repealed by No. 15 of 1898.

Certain duties of police officers. Obstructions and nuisances on roads.

53 Any person who in any street or road, thoroughfare, or passage, within the limits of any town, commits any of the following offences, shall be liable to a fine not exceeding five pounds, or to imprisonment not exceeding three months, and it shall be lawful for any police officer to take into custody without a warrant any person who within his view commits any such offence:

Slaughtering cattle, furious riding, &c.

(1) Any person who shall slaughter any cattle, or clean any carcass in the streets; any person riding any cattle carelessly, recklessly, and furiously, or training or breaking any horse or other cattle on or near any public road, to the danger of the passersby:

Cruelty to animals.

(2) Any person who wantonly or cruelly beats, abuses, or tortures any animal:

Obstructing passengers.

(3) Any person who shall keep any cattle or conveyance of any kind in any road or street longer than is required for loading or unloading goods, or for taking up or setting down passengers; or who shall leave any cattle or conveyance in such a manner as to cause inconvenience or danger to the public:

Exposing goods on roads.

(4) Any person exposing any article or thing on the roads or streets, and which may obstruct passengers or frighten horses:

Digitized by Google

(5) Any person who throws or lays down any dirt, filth, rubbish, or any stones or building materials; or who constructs any cow sheds, stable, or the like, within the bounds of any thoroughfare; or who causes any offensive matter to run from any house, factory, dung heap, or the like, into the street: — Throwing dirt into street.

(6) Repealed by No. 7 of 1873, itself repealed by No. 12 of 1891.

(7) Any person who wilfully and indecently exposes his person or any offensive deformity or disease, or commits nuisance by easing himself in or by the side of or near any public street or thoroughfare; or by bathing or washing in any place not set apart for that purpose: — Indecent exposure of person.

(8) Any person who neglects to fence in or duly to protect any well, tank, or other dangerous place or structure: — Neglect to protect dangerous places.

(9) Any person who drives or leads any conveyance or cart after dark and before daylight without lighted lanterns. — Driving cart, &c., without lanterns.

54 In every case in which any person shall be given in charge to a police officer on a false or frivolous charge, or in which a false or frivolous charge shall be made to a police officer against any person, or in which any information or complaint shall be laid or made before a police officer and shall not be further prosecuted, or in which if further prosecuted it shall appear to the magistrate by whom the case is heard that there were no sufficient grounds for making the charge, such magistrate shall have the power to award a fine not exceeding five pounds, or imprisonment for a period not exceeding one month, or both; or to award such amends, not exceeding five pounds, to be paid by the informer or complainant to the party informed or complained against, for his loss of time and expenses in the matter, as to such magistrate shall seem fit; and such amends shall be recoverable in the manner provided for the levy of fines. — Amends may be awarded for charges made on insufficient ground.

55 Every person taken into custody by any police officer without warrant (except persons detained for the mere purpose of ascertaining their name and residence) shall forthwith be delivered into the custody of the police officer in charge of a station house, in order that such person may be secured until he can be brought before a magistrate to be dealt with according to law, or may give bail for his appearance before a magistrate, if the officer in charge shall deem it prudent to take bail as hereinafter mentioned. Provided always that where bail is not taken, the prisoner shall be brought before a magistrate within twenty-four hours, unless circumstances render delay unavoidable. — Persons arrested without warrant to be taken to station house until brought before magistrate or bailed. — Proviso.

56 Repealed by No. 3 of 1883, itself repealed by No. 15 of 1898.

Digitized by Google

Superior officer of police may take recognizance for appearance of prosecutor or witness.

57 It shall be lawful for such above-mentioned police officer to bind by recognizance any person to appear as prosecutor or as a witness before the magistrate by whom any grave charge is being or is about to be investigated; and if any such prosecutor or witness shall refuse to execute such recognizance it shall be competent to such officer to forward the person in custody to the proper court.

Condition of recognizance.

58 Every recognizance so taken shall be without fee or reward, and shall be conditioned for the appearance of the person thereby bound before any magistrate at such time and place as may be required, and the time and place of appearance, and the sum thereby acknowledged, not exceeding one hundred pounds, shall be specified in the said recognizance, or in the condition thereof; and the officer taking the recognizance shall return the same forthwith to the magistrate before whom the party is bound to appear.

Enter drinking shops, &c., without a warrant.

59 It shall be lawful for any police officer without a warrant to enter and inspect all drinking shops, gaming houses, and other resorts of loose and disorderly characters, all premises of persons suspected of receiving stolen property, any locality, vessel, boat, or conveyance in any part whereof he shall have just cause to believe that crime has been or is about to be committed, or which he reasonably suspects to contain stolen property, and then and there to take all necessary measures for the effectual prevention and detection of crime, and to take charge of all property reasonably suspected to have been stolen, and of all articles or things which may serve as evidence of the crime supposed to have been committed, and to take charge of all unclaimed property.

60 Repealed by No. 3 of 1883, itself repealed by No. 15 of 1898.

Police officer not to receive complaints of petty offences.

61 No police officer shall receive any complaint of any petty offence, or take into his custody any person brought to him accused of such petty offences as trespass, assault, quarrelling, or the like; and it shall be lawful for any police officer to refuse to receive and act upon any charge of an offence of a grave character, if he shall, on inquiry made of the complainant alone, see good grounds for doubting its truth: Provided always that if the charge be not of such a nature as under ordinary circumstances would justify the police officer in refusing to receive it, the particular reasons for refusing it are to be recorded by such officer at the time.

Proviso.

Police officers may lay information, &c.

62 It shall be lawful for any police officer to lay any information before any magistrate, and to apply for summons, warrant, search warrant, or such other legal process as may by law issue, and may be expedient under the circumstances, against any person committing an offence against any law or enactment, or against any regulation for the protection of the revenue, or against any person committing or failing to remove any public nuisance or unwarrantable obstructions, keeping a disorderly house, harbouring thieves, disturbing the peace, obstructing the due course of justice, and the like;

Digitized by Google

and to prosecute such offenders up to final judgment: Provided always that any rewards, forfeitures, and penalties, or shares of rewards, forfeitures, or penalties which by law are payable to informers, and all costs of prosecution which may by any enactment be awarded to the prosecutor, shall be paid into a general fund for the reward of police officers, to be regulated in manner as the Governor shall from time to time direct.

Proviso.

63 ....* If, in the execution of process, it shall be found necessary for the officer of the police employed to serve such process to go any distance beyond five miles, the person at whose instance the process is issued shall be bound to lodge with the justice at the time he applies for the process a sum sufficient to cover the officer's travelling allowances, at such rates as the Governor shall from time to time appoint.

Execution of process beyond five miles.

[**Repealed by No. 3 of 1883, itself repealed by No. 15 of 1898*]

64 Repealed by No. 3 of 1883, itself repealed by No. 15 of 1898.

65 In all cases of fire or other calamity occurring within such town and limits, police officers shall repair to the place where the same has occurred for the protection of such persons and property as may be endangered thereby, and shall be authorized to call upon all persons to aid and assist them in that behalf; and every person so called upon who shall refuse or neglect to give such aid and assistance without good and sufficient excuse shall be guilty of an offence, and liable to any fine not exceeding one pound.

In case of fire, &c., police officers to repair to the spot.

66 Repealed by No. 3 of 1883, itself repealed by No. 15 of 1898.

67 Every householder within such town and limits shall furnish the officer of police of his division, when required so to do by such officer under the order received to that effect from any justice of the peace having jurisdiction within such town and limits, or from the Chief Superintendent of Police, with a list of all the inmates of his house, distinguishing the members of his family from the servants or others resident therein; and he shall also, if it shall be so directed in the order of the Chief Superintendent or justice of the peace, report any increase or diminution, or change in the same; and he shall not, having received such notice under such order, harbour a stranger without giving such notice thereof to the principal officer of police of his division; and every person failing in any duty imposed upon him by this clause shall be guilty of an offence, and be liable to any fine not exceeding five pounds.

Householder to give lists of inmates when required.

68 Repealed by No. 3 of 1883, itself repealed by No. 15 of 1898.

69 Officers of police not below the grade of inspector may, as occasion requires, direct the conduct of all assemblies and processions in the public roads, streets, or thoroughfares, prescribe the routes by which and the times at which such

Regulations of public processions, &c., and of carriages and persons at

Digitized by Google

places of public resort.

processions may pass, and direct all crowds of twelve or more persons to disperse when they have reason to apprehend any breach of the peace. All officers of police shall and may keep order in the public roads, streets, thoroughfares, and landing places, and all other places of public resort, and prevent obstructions on the occasions of such assemblies and processions, and in the neighbourhood of places of worship during the time of public worship, and in any case when the roads, streets, or thoroughfares, or landing places, may be thronged, or may be liable to be obstructed. They may also regulate the use of music in the streets, when the same shall be allowed. Every person opposing or not obeying the orders so given as aforesaid, or violating the conditions of any license granted by such superintendent or other officers for the use of such music, or for the assembling of any such body of persons, shall be liable to a fine not exceeding twenty pounds: Provided always that nothing in this section contained shall be deemed to interfere with the general control of the magistrate over such matters.

Licenses for use of music in streets.

Proviso.

Penalties for neglect of duty, &c.

70 Every police officer who shall be guilty of any violation of duty or wilful breach or neglect of any regulations and lawful orders of other competent authority, and not punishable under section 50 of this Ordinance, or who shall cease to perform the duties of his office without leave, or without having given two months' notice, as provided by this enactment, or engage without authority in any employment other than his police duty, or who shall be guilty of prevarication in any judicial trial, or who shall maliciously and without probable cause prefer any false, vexatious, or frivolous charge or information against any individual, or who shall knowingly and wilfully, and with evil intent, exceed his powers, or who shall be guilty of any wilful culpable neglect of duty in not bringing any person who shall be in his custody without a warrant before a magisterial officer as hereinbefore provided, or who shall allow any person in his custody to escape, or who shall offer any unwarrantable personal violence to any person in his custody, shall be liable to a penalty not exceeding three months' pay, or to imprisonment, with or without hard labour, for a period not exceeding three months, or both.

71 Repealed by No. 3 of 1883, itself repealed by No. 15 of 1898.

Penalty for cowardice.

72 Any police officer who shall be guilty of cowardice shall be liable to a fine not exceeding twelve months' pay, or to imprisonment, with or without hard labour, not exceeding twelve months, or both.

Unlawful assumption of police function, personation of police, &c.

73 Every person not being, or having ceased to be, a duly enrolled police officer, who shall unlawfully assume any function or power belonging to the police, and who shall not forthwith deliver up all the clothing, accoutrements, and appointments, and other necessaries which may have been supplied to him in the execution of his duty; or if any person shall wilfully injure any such clothing or other article

Digitized by Google

so as to render the same of less value; or who shall have in his possession any distinctive article of the dress or appointment directed to be worn exclusively by the police force, without being able to account satisfactorily for his possession thereof; or who shall put on the dress of any police officer, or any dress designed to represent it or to be taken for it; or who shall otherwise personate the character or act the part of any police officer for any purpose whatever, shall, in addition to any other punishment to which he may be liable for any offence committed under the assumed character, be liable to a fine not exceeding five pounds, or to imprisonment, with or without hard labour, for any period not exceeding three months, or both.

74 It shall be lawful for any officer of police not below the grade of inspector to give order either verbally or by notice in writing to any person causing any public nuisance mentioned in this Ordinance to abate and remove the same; and if any person to whom such order or notice shall have been given shall refuse or neglect to comply with the same in a reasonable time, or if there be any doubt as to who is the proper person to whom such order or notice should be given, it shall be lawful for such officer to cause any such public nuisance to be forthwith abated or removed; and for that purpose it shall be lawful for him, where necessary, to enter into or upon any house, garden, enclosure, land, or other premises, and to cause to enter therein or thereupon such persons, instruments, and things as may be necessary, and to proceed to do or cause to be done therein or thereupon all such things as may be necessary for such abatement or removal; and upon the officer certifying to the proper police magistrate the costs which have been *bonâ fide* incurred in effecting such abatement or removal, such magistrate shall summon the party or parties on account of whose non-compliance with any such order or notice such costs were incurred to appear before him on a certain day, then and there to make payment of such costs, where it shall appear after due investigation that such costs were properly incurred; and if such party or parties shall refuse or fail to make such payment, the police magistrate shall proceed to recover such payment in such and the same manner as he would proceed to recover any fine or penalty incurred under any sentence of the court in which he presides: Provided always that nothing in this Ordinance contained shall be construed to limit or interfere with in any way the common law right of any individual to abate any nuisance.

Nuisances how to be removed and abated.

Proviso.

75–77 Repealed by No. 3 of 1883, itself repealed by No. 15 of 1898.

78 When any action, prosecution, or proceeding shall be brought against any police officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under the authority of warrant issued by a magisterial officer; and such plea shall be proved by the production of the warrant directing the act and purporting to be signed by such magisterial officer; and the

Plea that act was done under a warrant.

Digitized by Google

defendant shall thereupon be entitled to decree in his favour, notwithstanding any defect of jurisdiction in such magisterial officer, and no proof of the signature of such official shall be necessary, unless the court shall see reason to doubt its being genuine: Provided always that any remedy which the party may have against the authority issuing such warrant shall remain entire.

Proviso.

Limitation of action.

79 All actions and prosecutions against any person which may be lawfully brought for anything done or intended to be done under the provisions of this Ordinance, or under the general police powers hereby given, shall be commenced within three months after the act complained of shall have been committed, and not otherwise; and notice in writing of such action and of the cause thereof shall be given to the defendant, or to the principal officer of the district in which the act was committed, one month at least before the commencement of the action; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into court after such action brought, by or on behalf of the defendant.

General Provisions.

Wells to be surrounded with wall two feet high.

80 All persons who shall make or cause to be made or have in rent or possess any well within any town and limits, and shall not surround the same with a wall two feet at least in height, and keep such wall of that height and in good and sufficient repair, shall be guilty of an offence, and be liable to any fine not exceeding two pounds.

No cart to remain in the street, &c., at night, under a penalty upon owner.

81 No cart of any description whatsoever shall be left or permitted to remain in any street, way, or avenue within any town and limits upon any pretence whatever without the permission of the principal officer of police, except for such time as shall be necessary for the purposes only of loading or unloading, or except in such places as shall at any time be appointed and notified by such officer; and any owner or person in charge of any cart so left or permitted to remain as aforesaid shall be guilty of an offence, and be liable to any fine not exceeding two pounds.

No carriage to obstruct any street.

82 In no case shall any description of carriage be permitted to obstruct the passage of any street, way, or avenue, nor any two or more carriages of any description to stand abreast in any street, way, or avenue, within such town and limits; and the owner or person driving, loading, or in charge of any such carriage not removing the same immediately when ordered or requested so to do by any officer of police, or by any private person, shall be guilty of an offence, and be liable to any fine not exceeding two pounds.

Penalty on furious or careless riding or driving.

83 All persons who shall drive or conduct any carriage or other vehicle in a careless, reckless, or violent manner, or who shall ride upon any carriage or other vehicle drawn by horses, bullocks, or other cattle at a pace other than a walk, unless the animal driven be so harnessed and bitted as to be

Digitized by Google

perfectly under the control of the driver, or some person on foot able to guide and control the same, or who shall furiously ride or drive, or carelessly lead or let loose, any horse, bullock, or other animal in any street, to the danger and terror of passengers, or shall employ any incompetent person to drive or conduct any carriage or other vehicle, or to lead any horse, shall be guilty of an offence, and be liable to a fine not exceeding five pounds, or to imprisonment, with or without hard labour, for any period not exceeding three months.

Elephants not to pass along the streets except at certain times.

84 No elephant shall be permitted to pass along any street, road, or thoroughfare within any town and limits except between the hours of two and eight in the morning; and every person riding, driving, or conducting any elephant, or causing any elephant to be ridden, driven, or conducted along any such street, road, or thoroughfare, except between such hours as aforesaid, shall be guilty of an offence, and shall be liable to a fine not exceeding five pounds: Provided always that nothing in this clause contained shall apply to the employment of elephants in any town or limits under a written license granted by the authority of the Governor.

Proviso.

Rules to be observed by carriages passing each other.

85 When a wheeled carriage shall pass another wheeled carriage going in the same or coming from an opposite direction, it shall pass on the off or right side of such other carriage; and every person driving or conducting a wheeled carriage who shall wilfully or negligently pass any other wheeled carriage on the wrong side, or prevent any other wheeled carriage from passing on the proper side, shall be guilty of an offence, and liable to any fine not exceeding one pound.

Persons offending against the 81st, 82nd, 83rd, 84th, and 85th clauses of this Ordinance may be seized.

86 It shall be lawful for any person within whose view any of the offences specified in the 81st, 82nd, 83rd, 84th, and 85th clauses of this Ordinance shall have been committed, to seize and take the party having so offended to the nearest officer of police to be dealt with according to law, if such party shall refuse to give to such person on demand full information respecting his name, occupation, and residence; and where such offender cannot be so seized or traced, but the carriage, cart, or animal in respect of which the offence in question was committed can be identified, it shall be lawful for any competent court to issue a warrant for the seizure of such carriage, cart, or animal, together with a summons to the owner thereof to appear before such court on a certain day to be mentioned in such summons; and if such owner shall fail to attend in pursuance thereof without good and sufficient excuse, or if attending and not being himself the offender he shall refuse to give all information in his power respecting the party by whom such offence was committed, such owner shall be guilty of an offence, and be liable to the same punishment to which the party so having offended as aforesaid would have been liable on conviction thereof.

Digitized by Google

Penalty on persons forming part of procession or assemblies carrying swords or other offensive weapons.

87 If any person forming part of any procession or of any assembly of more than twelve persons, except under military regulation or some regulation of police, which shall take place or be collected for some particular purpose anywhere within any town and limits, shall have about him or have placed anywhere near him so as to be capable of being used by him while forming part of such procession or of such assembly, any gun, pistol, sword, creese, club, or other offensive weapon, every such person shall be guilty of an offence, and be liable to any fine not exceeding twenty pounds, or to imprisonment at hard labour for any period not exceeding twelve months; and every person who shall have formed part of any such procession or assembly, and who it shall be proved to the satisfaction of the court before whom he shall be brought was aware that any such offensive weapon was carried or placed near any person forming part of such procession or assembly as aforesaid, and did not give information thereof to some officer of police, shall be guilty of an offence, and be liable to any fine not exceeding ten pounds, or to imprisonment, with or without hard labour, for any period not exceeding six months.

88, 89 Repealed by No. 3 of 1883, itself repealed by No. 15 of 1898.

Beating of tom-tom, &c.. forbidden.

90 All persons who shall at any time within any town and limits, either within or without any house or building, beat drums or tom-toms, or have or use any other music calculated to frighten horses, or who shall make any noise in the night so as to disturb the repose of the inhabitants, or who shall at any time discharge firearms, crackers, or fireworks, except under military regulation, or unless they shall have obtained a license from the police magistrate of the district, or from the Chief Superintendent of Police or provincial inspector, who are hereby authorized to grant the same when it shall to them appear expedient, or who shall play at any games in or near any street, road, or thoroughfare, or fly any kite, or throw any stone or other missile, or wilfully or negligently make any noise, or do any act or thing in a manner calculated to terrify or injure any passenger, horse, or cattle, or to injure any property, shall be guilty of an offence, and be liable to any fine not exceeding five pounds, or to imprisonment, with or without hard labour, for any period not exceeding three months.

False reports to alarm people and create a panic.

91 Any person who shall spread false reports with the view to alarm the inhabitants of any place within this island and create a panic shall be guilty of an offence, and be liable to a fine not exceeding twenty pounds, or to imprisonment, with or without hard labour, for any period not exceeding twelve months; and if he shall be convicted a second time, or shall persist in the offence after warning to desist, he shall be liable to corporal punishment not exceeding twenty lashes.

92, 93 Repealed by No. 3 of 1883, itself repealed by No. 15 of 1898.

Digitized by Google

94 No filth, or dirt, or dead or disabled animal shall be cast or allowed to remain in any street, road, canal, or other thoroughfare within any such town and limits. and every inhabitant within any such town and limits shall keep the space and street or road, and all surface drains, ditches, and gutters before his house clean, and the owners or occupiers of all private avenues, passages, yards, and ways, and all slaughter-houses shall keep the same clean, and shall remove the offal to such place as the principal police officer of the division may point out under the directions of the Superintendent of Police; and any person wilfully offending against this clause shall be guilty of an offence, and liable to any fine not exceeding two pounds. **Persons to keep the space opposite their houses clean.**

95 It shall be lawful for the Chief Superintendent of Police, or where there is a municipality for the municipal council or its officers, to notify from time to time in as public a manner as he conveniently can, the place or places in any such town and limits within which persons shall not be allowed to ease themselves under the penalty hereinafter mentioned; and every person who shall, after such notification shall have been given, ease himself in any place comprehended in such notification, except in some house, outhouse, or enclosed place, with the leave of the occupant thereof, shall be guilty of an offence, and be liable to any penalty not exceeding one pound: Provided always that nothing in this clause contained shall be construed into a declaration that persons cannot commit a nuisance by easing themselves in such places as are not comprehended in such notification as aforesaid. **Common nuisance.**

96 Repealed by No. 3 of 1883, itself repealed by No. 15 of 1898.

97 All houses and gardens within such parts of any of the said towns and limits as the Governor shall from time to time direct by Proclamation to be for that purpose issued in the *Government Gazette* shall, within six months after such Proclamation shall have been so issued, be surrounded with walls or good fences, and be cleared and kept clean of brush and underwood; and every person neglecting within such time so to surround his house and garden, or to clear and to keep the same clear of brush and underwood, shall be guilty of an offence, and be liable to any fine not exceeding two pounds: Provided always that the proprietors of adjoining lands which shall require to be fenced or walled under the provisions of this clause shall be liable to make and keep in repair each one-half of such fence or wall, except where by any law or custom such liability shall be otherwise determined. **Houses to be surrounded with walls or fences, and gardens kept clear.** **Proviso.**

98 Whereas the punishments assigned to certain offenders under this Ordinance are beyond the jurisdiction of police courts, but it would be frequently more advantageous that such offences should be brought to trial before such courts in order that the punishment of offenders may be **Cases may be tried before police courts, though otherwise out of their jurisdiction.**

Digitized by Google

more prompt, even though it should be less severe: It is therefore enacted, that in case of any person committing an offence under this Ordinance, and which offence could not otherwise be cognizable by a police court by reason of the punishment to which the same is subject, a certificate shall be presented to any police court, signed by the *Attorney-General* or by some competent *Crown Counsel* to the effect that such officer is content that such offence or act shall be prosecuted before such court, it shall be competent to such court to take cognizance of such offence or act, and to award in respect thereof so much of the punishment assigned thereto as police courts are empowered by law to award.

[§ *3, 1 of 1883*]
[§ *4, 1 of 1883*]

99 Repealed by No. 3 of 1883, itself repealed by No. 15 of 1898.

Power to prosecute not affected.

100 Nothing contained in this Ordinance shall be construed to prevent any person from being prosecuted for any offence made punishable on conviction by this Ordinance, or to prevent any person from being liable under any other law to any other or higher penalty or punishment than is provided for such offence by this Ordinance: Provided always that no person shall be punished twice for the same offence.

Proviso.

SCHEDULE.

A (Section 3).

Ordinances repealed.

Ordinance No. 17 of 1844, entitled "An Ordinance for establishing an efficient Police in certain Towns."

Ordinance No. 10 of 1848, entitled "An Ordinance to provide for the extension in certain places of this Island of certain of the provisions of the Ordinance No. 17 of 1844."

Ordinance No. 4 of 1852, entitled "An Ordinance to alter and amend the Ordinance No. 17 of 1844."

Ordinance No. 4 of 1853, entitled "To make further provision for the recovery of the Assessment Tax."

Ordinance No. 5 of 1863, entitled "An Ordinance to provide for the extension to certain places in this Island of some of the provisions of the Ordinance No. 17 of 1844."

Ordinance No. 8 of 1864, entitled "An Ordinance to extend the operation of the Ordinance No. 17 of 1844, entitled 'An Ordinance for establishing an efficient Police in certain Towns.'"

B (Section 4).

Jaffna: Regulation No. 6 of 1813, entitled "Regulation for the better Police of the Towns and Forts of Jaffnapatam and Point de Galle and their Gravets."

Manaar: Regulation No. 6 of 1815, entitled "Regulation for the better Police for the Town, Fort of Manaar, and its Gravets."

Digitized by Google

C (Section 40).

To ———.

Take notice that in pursuance of the Ordinance No. —— of 18—, the ——— situated at (———), the property of ———, has been assessed at the annual value of £———, and that the tax for each quarter due on the ——— day of ———, the ——— day of ———, the ——— day of ———, and the ——— day of ———, amounts to the sum of ———.

You are hereby required therefore to pay the said amount of £ ——— into the office of ——— within one month after service hereof, and thereafter within one month after the same shall become due, or in default thereof it will be recovered in due course of law.

Signed this ——— day of ———, 18—.

———
Government Agent.

A receipt, signed by the Government Agent or his assistant, will be delivered on payment of the sums hereby demanded.

Received this ——— day of ———, on account of the Government of Ceylon, the sum of £———, being the ——— quarter's tax due on the ——— of ——— for the ———.

———
Government Agent.

D (Section 48).

Certificate of Sale.

Whereas ———, of ———, was rated (*or* taxed, *as the case may be*) under "The Police Ordinance, 1865," and became liable in the sum of £——— inclusive of costs, and made default in the payment thereof: And whereas warrant of distress was issued in conformity with the said Ordinance, and the property of the said ———, to wit (*here describe the property*), was sold on the ——— day of ———, and the same was purchased by ——— for the sum of £———, which has been duly paid by the said ———:

Now know ye that I, ———, Government Agent of the ——— Province, by virtue of the powers in me vested by the said Ordinance, do hereby certify that such sale and purchase have duly taken place, and that the property above described is and shall henceforward be vested in the said ———, his heirs, executors, administrators, and assigns for ever.

Given under my hand at ———, this ——— day of ———.

A. B.,
Government Agent.

18th November, 1865.

No. 7 of 1866.

An Ordinance relating to the Police Force.

(*See No. 1 of 1878.*)

Preamble.

WHEREAS it is expedient to amend, in certain respects, the Ordinance No. 16 of 1865, entitled "An Ordinance to provide for the establishment and regulation of a Police Force in this Island": It is enacted as follows:

Meaning of "police officer."

1 The expression "police officer" shall include the Chief Superintendent of Police, provincial superintendents and assistant superintendents of police, inspectors, sergeants, and constables.

Digitized by Google

Powers vested in superintendent by section 11 of "The Police Ordinance, 1865," how exercisable.

2 The powers vested in the Chief Superintendent of Police by section 11 of the said Ordinance shall be exercised by him under the directions of the Governor and Executive Council, and not with their advice and consent, as is in the said section mentioned.

The several officers of police.

3 The 23rd section of the said Ordinance is hereby repealed, and it is enacted instead thereof that the administration of the police in this island shall be vested in the Chief Superintendent of Police, provincial superintendents and assistant superintendents of police, inspectors, sergeants, and constables. The powers vested by the said Ordinance in provincial inspectors shall be exercised by the superintendents and assistant superintendents, and the provisions in the said Ordinance contained respecting provincial inspectors shall apply to such superintendents and assistant superintendents respectively.

Appointments under Ordinance.

4 The appointments under the said Ordinance and under this Ordinance to which are attached salaries exceeding two hundred pounds a year shall be held during the pleasure of Her Majesty, her heirs and successors: Provided that it shall be lawful for the Governor to appoint any person provisionally to such offices until the pleasure of Her Majesty shall have been made known.

Repeal of sections 35 and 36, and power to appoint three or more assessors to assess the town, acting separately or collectively.

5 The 35th and 36th sections of the said Ordinance are hereby repealed, and it is enacted instead thereof that the assessment to be made in any town for the purposes of creating a fund for the maintenance of a police force therein shall be made by three or more persons appointed by the Governor, with power to them to act separately or collectively as the government agent shall direct; and each person so appointed shall be entitled to receive such remuneration as the Governor may in his discretion award.

Time for appointment of assessors.

6 The assessors for the first year in which a police force is to be introduced in any town may be appointed before the introduction of such force, and every such assessor, when so appointed, shall have and exercise the powers conferred on the committee of assessors by the 37th and 38th sections thereof, nothwithstanding that the Ordinance shall not have been brought into operation in such town. For every year after the first the assessors shall be appointed within such time before the commencement of each year as the Governor shall deem reasonable.

17th October, 1866.

No. 5 of 1867.

An Ordinance relating to the Assessment of Lands for the maintenance of the Police Force.

Preamble.

WHEREAS it is expedient to give to parties dissatisfied with the assessment of the annual value of land for the purposes of creating a fund for the maintenance of the police force the right to object to and appeal against the same: It is hereby enacted as follows:

Remedy of parties dissatisfied with the assessment.

1 If any person shall be aggrieved by the assessment or non-assessment of any house, building, land, or tenement, it shall be lawful for him to object to such assessment or such non-assessment before the court of requests having jurisdiction in the place where such house, building, land, or tenement is situate, if the amount of the rate on the annual

Digitized by Google

value of such house, building, land, or tenement does not exceed ten pounds, and to the district court if such amount exceeds ten pounds; and such court shall decide upon such objection in a summary way, and have power to amend the assessment or to supply any omission if necessary, and its decision shall be subject to appeal to the Supreme Court, which shall have like power of amendment, and each of the said courts shall have power to give costs: Provided that no such objection shall be entertained by any court of requests or district court unless the same shall be made, if by private parties within fifteen days, and if by the Government within one month, after the service of notice of assessment prescribed by section 40 of "The Police Ordinance, 1865," or by section 63 of "The Municipal Councils' Ordinance, 1865,"* nor unless the person objecting, or some person authorized by him in that behalf in writing, shall at the time of making such objection satisfy the court, by affidavit or otherwise, that he has furnished a statement in writing of the specific grounds on which such objection is founded to the government agent in any town where there is no municipality, or to the chairman of the council where a municipality has been established, and to the person, if any, to the under-rating or omission of whose property he objects.

Appeal.

2 Neither the objection nor the appeal shall stay the levying of any part of the rate which may be proceeded with; the excess (if any) collected shall in such case be refunded, or the deficient amount (if any) shall be collected, according to the decision of such court of requests or district court, if there be no appeal, or of the Supreme Court in case of appeal.

Levying of rate not to be stayed.

3 The judges of the Supreme Court may from time to time, and subject to the provisions of the Ordinance No. 8 of 1846,† or any other Ordinance to be in that behalf hereafter enacted, make rules and orders as to the notices and the hearing of objections and appeals: Provided that such rules and orders shall not be inconsistent with or repugnant to the provisions of this Ordinance.

Judges of Supreme Court to make rules.

16th January, 1867.

No. 16 of 1867.

An Ordinance relating to certain Official Designations.

WHEREAS it is expedient to change certain designations hereinafter described: It is therefore hereby enacted as follows:

Preamble.

1 The office of the Civil Engineer and Commissioner of Roads shall be henceforward termed "The Department of Public Works."

Future designation of Civil Engineer and Commissioner of Roads' office.

2 The chief officers of the above office and of the police force shall be henceforward termed "Director of Public Works" and "Inspector-General of Police" respectively, instead of "Civil Engineer and Commissioner of Roads" and "Chief Superintendent of Police."

Future designation of the heads of that office and of police force.

3 All the powers vested in those officers respectively, and in their assistants, by the different Ordinances heretofore enacted relating to them, and all the provisions made therein applicable to such officers and their assistants, shall be vested in, exercised by, and be deemed applicable to the Director of Public Works and Inspector-General of Police, and their assistants, respectively.

Powers of and provisions applicable to those officers to be vested in and apply to the Director of Public Works and Inspector-General of Police and their assistants.

11th December, 1867.

* Repealed by No. 7 of 1887. † Repealed by No. 1 of 1889.

Digitized by Google

No. 19 of 1871.

An Ordinance to provide for the reduction in certain places of the minimum rates payable for maintenance of Police.

Preamble.

WHEREAS it is expedient to provide for the reduction in certain cases of the minimum rate payable for the maintenance of the police: It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Minimum rates may be reduced in certain places from two shillings to fifty cents.

1 It shall be lawful for the Governor, with the advice of the Executive Council, to reduce, in any place where a police force is now or may hereafter be stationed, the minimum rate payable to meet the expenses defrayable by the inhabitants of such place for the maintenance of such police force, from the sum of two shillings yearly to fifty cents, if, owing to the poverty of the inhabitants or any other cause, such reduction shall appear to them reasonable. The rate, where such reduction is made, shall be assessed and payable half-yearly, and not quarterly.

This Ordinance and "Police Ordinance, 1865," to be deemed one.

2 This Ordinance and "The Police Ordinance, 1865," shall be read and construed as if they formed one Ordinance.

Commencement of Ordinance.

3 This Ordinance shall come into effect on the First day of January, 1872.

19th December, 1871.

No. 6 of 1873.

An Ordinance to prescribe the order in which the property of Public Defaulters may in certain cases be seized and sold.

Preamble.

WHEREAS "The Police Ordinance, 1865," and the Ordinance No. 5 of 1866, entitled "An Ordinance to facilitate the recovery of moneys due as commutation of the Paddy Tax and of the performance of Labour," authorized the seizure and sale of the property of persons making default in the payment of the tax for the maintenance of the police, or the commutation of the paddy tax, or the commutation for the performance of labour, and it is expedient to prescribe the order in which such property may be seized and sold: It is therefore hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Order to be observed in seizing and selling property for recovery of tax or commutation.

1 Whenever it shall be necessary to seize and sell the property of any person making default in the payment of the said tax or commutation, it shall be the duty of the officer authorized by the said Ordinances to seize and sell property to observe the following order in carrying out such seizure and sale:

Movables of defaulter wherever found, and, in the case of the police tax, of any person in the premises for which tax is due.

(1) The movable property of the defaulter, wheresoever the same may be found, sufficient in the opinion of the officer seizing and selling the property to cover the amount of the tax due and the charges incurred in the recovery of the same. Provided that in the case of default in the payment of the tax due for the maintenance of the police under "The Police Ordinance, 1865," any movable property, to whomsoever the same may belong, which shall be found in or upon any house, building, land, or tenement for which such tax shall be due, may be seized and sold. But it shall not be lawful to seize any movable property which may be found in or upon any house, building, land, or tenement in respect of which such tax shall be due, for any arrears of tax due

Proviso: property of others may not be seized for

Digitized by Google

beyond two quarters next preceding such seizure, unless such movable property shall belong to any person who was the owner or a joint owner of the said house, building, land, or tenement at the time the arrears beyond such two quarters accrued and became due; or unless such movable property shall belong to any person who shall have occupied the said house, building, land, or tenement at the time when the said last-mentioned arrears accrued and became due. arrears of tax beyond two quarters. Exceptions.

(2) Failing such movable property, the rents and profits of the house, building, land, or tenement for which such tax or commutation shall be due, for a term sufficient, in the opinion of the officer seizing and selling the property, to cover the amount of the tax or commutation due and the charges incurred in the recovery of the same. Rents and profits.

(3) Failing such rents and profits, the materials of any house or building standing on the land for which such tax or commutation shall be due, and the timber growing thereon, sufficient, in the opinion of the officer seizing and selling the property, to cover such tax or commutation and the charges as aforesaid. And the purchaser of such materials or timber shall be entitled to pull down or cut and remove the same within the time allowed him for that purpose by the officer carrying out such seizure and sale. Building materials and timber.

(4) Failing such building materials and timber, the house, building, land, or tenement for which such tax or commutation shall be due; or, if a portion thereof, sufficient to cover such tax or commutation and the charges as aforesaid, can, in the opinion of the officer seizing and selling the property, be conveniently separated from the rest, such portion only. Premises on which tax is due, or a portion thereof.

Provided, however, that no officer shall be liable in damages by reason of his not duly observing such order, unless the person claiming such damages shall establish to the satisfaction of the court that the defaulter, or some person on his behalf, pointed out to such officer, at the time he was making the seizure of such defaulter's property, free and unclaimed property sufficient to cover the amount of the tax or commutation, and charges as aforesaid, which was liable to seizure, in the first instance, according to the order hereby established, but which such officer nevertheless failed to seize. Proviso.

2 This Ordinance shall come into operation at the date of the passing thereof. Commencement of Ordinance.

3rd February, 1873.

No. 3 of 1875.

An Ordinance to amend the Ordinances Nos. 16 and 17 of 1865 in respect of the Assessment of certain Rates.

(*As amended by No. 7 of 1887.*)

WHEREAS by the 53rd section of the Ordinance No. 17 of 1865,* municipal councils are empowered, subject to the provisos therein contained, to make and assess, as therein mentioned, rates on the annual value of all houses and buildings of every description and all lands and tenements whatsoever within their respective municipalities: And whereas the meaning of the words "annual value," as employed in the enactment aforesaid, has been lately restricted to be the net annual value of the property in question, after deducting all expenses of repairs, or other expenses of maintenance or upkeep, and it is expedient that the rates authorized by the said enactment should be levied as heretofore on the gross annual value of the properties Preamble.

* Repealed by No. 7 of 1887.

Digitized by Google

therein specified in that behalf: And whereas it is expedient that the rates authorized by the Ordinance No. 16 of 1865 should be also levied on the gross annual value of the properties therein specified in that behalf:

1 Repealed by No. 7 of 1887.

Basis of rating under Ordinance No. 16 of 1865, section 34, to be gross annual value.

2 For the purposes of the 34th section of the Ordinance No. 16 of 1865 the "*bona fide* annual value" of all houses, buildings, lands, and tenements, as a basis of rating, shall be the gross annual value, without any deduction for expenses, repairs, or other expenses for maintenance or upkeep.

Title of Ordinance.

3 This Ordinance may be cited for all purposes as "The Municipal and Police Assessment Ordinance."

Commencement of Ordinance.

4 This Ordinance shall come into operation from the date of the passing thereof.

6th January, 1875.

No. 1 of 1878.

An Ordinance to declare the Powers of Assessors appointed under the provisions of the Ordinance No. 7 of 1866.

Preamble.

WHEREAS doubts have been entertained whether assessors appointed for any town under the provisions of the Ordinance No. 7 of 1866, intituled "An Ordinance relating to the Police Force," possess all the powers and authorities expressed to be vested by the 37th and 38th sections of "The Police Ordinance, 1865," in the committee therein mentioned: And whereas it is expedient to remove such doubts: It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Assessors appointed under Ordinance No. 7 of 1866 declared to have the same powers as the committee mentioned in "The Police Ordinance, 1865."

The assessors appointed for any town under the provisions of the Ordinance No. 7 of 1866, intituled "An Ordinance relating to the Police Force," are declared to have, and since the passing of the said last-mentioned Ordinance to have had, all the powers and authorities expressed to be conferred or vested by the 37th and 38th sections respectively of "The Police Ordinance, 1865," upon or in the committee therein mentioned; and each of such assessors is declared to have, and since the passing of the said Ordinance No. 7 of 1866 to have had, all the power and authority expressed to be conferred or vested by the aforesaid sections respectively of the said "Police Ordinance, 1865," upon or in any member of such committee.

9th October, 1878.

No. 7 of 1880.

An Ordinance to amend "The Police Ordinance, 1865."

Preamble.

WHEREAS it is expedient to amend "The Police Ordinance, 1865," in manner hereinafter appearing: It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Recovery of expense under 10th, 11th, and 26th sections of Ordinance No. 16 of 1865.

1 The 27th section of the said Ordinance shall extend and apply to any police force which may hereafter be quartered, increased, or employed under the authority of the 10th, 11th, and 26th sections, and shall hereafter be read and construed as if the word "additional" were not inserted therein.

Fixed rates at which such

2 The cost of the police payable under the 10th, 11th, 17th, and 26th sections of "The Police Ordinance, 1865," and recoverable

Digitized by Google

under the 27th section of the said Ordinance, shall be at the rates hereinafter mentioned: that is to say, recovery shall be made.

	Per annum.		Per annum.
Inspector	...Rs. 1,230	First class native sergeant ...Rs.	576
European sergeant ...	918	Second class native sergeant	384
European constable ...	518	Native constable ...	252

and the certificate of the Inspector-General of Police shall be conclusive evidence of the correctness of all charges made under this Ordinance. Proof of charges.

17th November, 1880.

No. 13 of 1884.

An Ordinance to amend Ordinance No. 16 of 1865, intituled "An Ordinance to provide for the establishment and regulation of a Police Force in this Island."

WHEREAS doubts have arisen whether a police officer is authorized under the provisions of "The Police Ordinance, 1865," to execute a warrant in a town, place, or district, other than a town, place, or district in which, under any of the provisions of the said Police Ordinance, a police force has been established; and whereas it is expedient to remove such doubts: Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1 This Ordinance and Ordinance No. 16 of 1865, entitled "An Ordinance to provide for the establishment and regulation of a Police Force in this Island," shall be construed and read as one Ordinance. Ordinance to be read with "The Police Ordinance, 1865."

2 Every police officer to whom any description of warrant shall have been addressed for execution is hereby authorized and empowered to execute any such warrant in any and every part of this island as well as in any town, rural district, or place other than large towns or rural districts, in which a police force shall under the provisions of the aforesaid Ordinance have been established, anything in the said Ordinance to the contrary notwithstanding. Provided, however, that nothing herein contained shall justify any police officer executing any warrant or process illegally issued or entrusted to him for service, or shall relieve him from any penalty or liability incurred in respect of the execution of any warrant improperly or illegally issued, or in respect of any neglect of duty or abuse of the powers hereby conferred Police officers to have authority to execute warrants in all parts of the island.

14th February, 1884.

No. 11 of 1886.

An Ordinance to remove doubts as to the Jurisdiction of the Police within the Ports of this Island.

WHEREAS doubts have arisen as to whether the police may lawfully have and exercise their powers within the ports of this island; and whereas it is expedient to remove such doubts: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1 In this Ordinance, unless the context otherwise requires, "port" shall include all harbours, roadsteads, and places of anchorage in the island; and where the limits of any port have been or may hereafter Interpretation clause.

Digitized by Google

be defined by the Governor, with the advice of the Executive Council, under section 5 of "The Masters Attendant's Ordinance, 1865," those limits shall be taken to apply to such port for the purposes of this Ordinance.

Police officers to act in the ports of this island.

2 Every police officer empowered to act as such within any town or place adjacent to any port shall within such port have all such powers, protections, and privileges, and be liable to all such duties and responsibilities as by law he has and is liable to within such town or place.

Governor may make rules.

3 It shall be lawful for the Governor, in Executive Council, from time to time to make, and when made to revoke, alter, or amend rules—

(*a*) For regulating the number, distribution, and particular service of the several officers who shall be on duty in any port, and the number and description of boats to be provided for their service ;

(*b*) For determining at what times and in what rotation the police boats shall be employed in rowing guard in the said port ;

(*c*) For promoting the general efficiency of the police within the said port, and for preventing neglect or abuse in the discharge of their duties.

Police officers to obey lawful orders of master attendant and customs officer.

4 Every police officer, when acting as such within any port, shall obey and execute any lawful order which may be issued to him by the master attendant or the principal officer of customs of such port in all matters relating thereto, and to offences and offenders therein.

Penalties.

5 Any police officer committing a breach of any rule made under section 3, or refusing to obey or execute any lawful order issued to him under section 4, shall be guilty of an offence, and shall be liable to a fine not exceeding fifty rupees, or to simple imprisonment for a term not exceeding three months.

1st November, 1886.

No. 20 of 1865.

An Ordinance to provide against the removal of Stones and other substances from certain parts of the Seashore.

Preamble.

WHEREAS many of the public roads and thoroughfares in this colony are seriously injured by the removal of stones or other substances from the seashore adjoining or near such roads and thoroughfares, and it is expedient to prohibit such removal : It is enacted as follows :

Agent may prohibit removal of stones, &c., from any locality.

1 It shall be lawful for the government agent of any province to prohibit the removal of stones or other substances from the seashore adjoining or near public roads and thoroughfares in any part of the district within his province, if such removal should, in his judgment, be calculated to injure such roads and thoroughfares; and he shall cause notice of such prohibition to be given in the district by such means as shall seem to him likely to give the greatest publicity thereto.

Penalty for removal after prohibition.

2 Whoever, after such notice of prohibition, shall break or remove stone or other substances from any place from which such breaking or removal shall be prohibited, shall be

Digitized by Google

guilty of an offence, and be liable to a fine not exceeding five pounds, or to imprisonment, with or without hard labour, not exceeding three months, or to both; and the stone or substance shall be liable to be seized and to be disposed of as the government agent or any assistant government agent shall direct.

29th November, 1865.

No. 22 of 1865.

An Ordinance to establish the validity of a Lease of a portion of the Parsonage Land at Nuwara Eliya.

(*See No. 31 of 1890.*)

WHEREAS by virtue of a conveyance bearing date at Caltura the 28th day of October, 1853, the late Francis James Templer granted, bargained, sold, assigned, and set over, for the consideration therein named, a tract of land at Nuwara Eliya, bounded on the north, east, and west by other land belonging to the said Francis James Templer, and on the south and south-west by a river, and containing in extent thirty acres, according to a survey to the said conveyance annexed, to Robert Temple, Samuel Baker, and Raymond Richard Pelley, the then trustees of the Episcopal Church at Nuwara Eliya, and to their successors the trustees for the time being : Preamble. Conveyance of land to trustees.

And whereas Robert Temple, Arthur Edward Carey, and Mark Kellow, then trustees of the said church at Nuwara Eliya, on the 24th day of August, 1863, leased, for the consideration therein named, a portion of the land above described, three acres in extent, to Alfred Peter Lovekin, his executors, administrators, and assigns, for the term of seventy years, commencing from the 31st day of December, 1863, with power to the said Alfred Peter Lovekin to erect buildings thereon, and to plant and improve the same at his and their free will and pleasure : Lease by trustees to A. P. Lovekin.

And whereas the said Alfred Peter Lovekin has erected a certain house on the land so leased, and has planted and improved the same; but doubts have been raised as to the validity of the lease and the power of the said trustees to make the same : Land built upon and improved. Doubts as to validity of lease.

And it has been represented by Piers Clavely Claughton, the Lord Bishop of Colombo, and Thomas Skinner, James Fowler, William Kellow, and Christopher Edmund Temple, the present trustees of the said church, that the value of the entire land made over for the use of the parsonage, as firstly herein recited, has been considerably increased by the buildings and improvements made by the said Alfred Peter Lovekin under the said lease secondly herein recited, and Representation by Bishop and trustees for Ordinance to remove those doubts.

Digitized by Google

the said Bishop and trustees, on the one hand, and Alfred Peter Lovekin, on the other, have applied to the Government for an Act of the Legislature to remove the doubts above mentioned:

Expediency of passing Ordinance.

And whereas it is clear that such lease was made in good faith, and that it was and is beneficial and profitable to the interest of the trust established by the conveyance firstly above recited, and that it is expedient to confirm the same:

Lease declared valid.

1 It is enacted that the said lease secondly above recited shall be and the same is hereby declared valid to all intents and purposes.

Saving clause.

2 Provided, however, that nothing herein contained shall affect the rights of Her Majesty, her heirs and successors, and of all bodies politic and corporate, and of all other persons, excepting those at whose instance or for whose special benefit this Ordinance has been passed, and those claiming by, from, through, and under them.

13th December, 1865.

No. 31 of 1890.

An Ordinance to enable the Trustees of the Episcopal Church at Nuwara Eliya, known as Holy Trinity Church, to sell a portion or portions of Land vested in them as Trustees of such Church.

Preamble.

WHEREAS by virtue of a conveyance bearing date at Kalutara, the Twenty-eighth day of October, One thousand Eight hundred and Fifty-three, the late Francis James Templer granted, bargained, sold, assigned, and set over for the consideration therein named a tract of land at Nuwara Eliya, bounded on the north, east, and west by other land belonging to the said Francis James Templer, and on the south and south-west by a river, and containing in extent thirty acres according to a survey to the said conveyance annexed, to Robert Temple, Samuel Baker, and Raymond Richard Pelly, the then trustees of the Episcopal Church at Nuwara Eliya, now known as Holy Trinity Church, and to their successors, the trustees for the time being: And whereas the said tract of land is of greater extent than is required for the purposes of the said church, and whereas Cecil John Reginald Le Mesurier, John Helps Starey, William Nock, and John Alexander Rossiter, the present trustees of the said church, are desirous of selling such portion or portions of the said tract of land as in their opinion is or are unnecessary to be retained for the purposes of the said church, and have, through the standing committee of the synod of the Church of England in the diocese of Colombo, applied to the Government for an Ordinance to enable them or their successors, the trustees for the time being of the said church, to sell and convey such portion or portions of the said tract of land and the building or buildings standing thereon for such price or prices as to them or the trustees for the time being may seem fit and proper: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Trustees authorized to sell at their

1 It shall be lawful for the said Cecil John Reginald Le Mesurier, John Helps Starey, William Nock, and John Alexander Rossiter, or the trustees for the time being of the Episcopal Church at Nuwara

Digitized by Google

Eliya, known as Holy Trinity Church, in their absolute discretion to sell any portion or portions of the said tract of land by public auction or private contract, and subject or not at the absolute discretion of the above-named trustees or the trustees for the time being of the said church to any stipulations as to title, evidence, indemnity, the mode of paying the purchase-money, or otherwise, and to buy in the said portion or portions of the said tract of land, and to rescind or vary any contract for sale, and resell without being answerable for any loss, and to convey the same respectively in such manner as shall be thought expedient for effecting such sale. discretion any portion or portions of lands vested in them as trustees.

2 The said Cecil John Reginald Le Mesurier, John Helps Starey, William Nock, and John Alexander Rossiter, or the trustees for the time being of the said church, shall stand possessed of the money to arise by such sale or sales, after payment of the expenses attending such sale or sales, upon and for the trusts and purposes, and subject to the powers, provisos, and declarations expressed in the Ordinance No. 12 of 1846, in respect of property and moneys vested in trustees elected and appointed under the said Ordinance as trustees of any church.

Purchase money to be vested in trustees for the trusts and purposes of the Ordinance No. 12 of 1846.

3 The receipt in writing of the said Cecil John Reginald Le Mesurier. John Helps Starey, William Nock, and John Alexander Rossiter, or the trustees for the time being of the said church, for the purchase moneys of any portion or portions of the property hereby authorized to be sold shall effectually discharge the person or persons paying the same therefrom, and from being accountable for the loss, misapplication, or non-application thereof, and from being concerned to see to the application thereof.

Receipt of trustees to be a discharge to persons purchasing any portion of the property.

4 Nothing in this Ordinance contained shall affect the rights of Her Majesty, her heirs, and successors, or of the lessee, his executors, administrators, and assigns under the lease, the validity of which was established by the Ordinance No. 22 of 1865, intituled "An Ordinance to establish the validity of a Lease of a portion of the Parsonage Land at Nuwara Eliya."

Saving clause.

17th December, 1890.

No. 24 of 1865.

An Ordinance to authorize the shooting of Cattle trespassing on the Line of Railway.

(*See under No. 26 of 1885.*)

No. 4 of 1866.

An Ordinance to enlarge the power of the Surveyor-General to demand the production of Deeds and make Surveys of Lands, and to facilitate the proof of Surveys.

Preamble.

WHEREAS the continued encroachments made by private individuals upon lands belonging to the Crown, and the necessity for ascertaining and distinguishing the lands belonging to the Crown from those belonging to private individuals, render it necessary that the Surveyor-General and his officers should be vested with increased powers to demand the production of title deeds, and to make

Digitized by Google

surveys of lands, whether public or private; and whereas it is expedient to facilitate the proof of Government surveys: It is therefore enacted as follows:

Surveyor-General, &c., may demand production of deeds.

1 It shall be lawful for the Surveyor-General, or any of his assistants, or for any person authorized in that behalf in writing by the Surveyor-General, whenever to them it shall appear necessary to do so, to demand in writing of the person claiming to be the owner of any land or premises, or of his agent, or of the occupier of any such land or premises, the production of every deed, document, or instrument upon which such person founds his claim; and if such agent, or the occupier of any such land or premises, shall refuse to give full information respecting the name and residence of the alleged owner, and of the person by whom such agent or occupier is employed, and in whose possession the said deeds, documents, and instruments are, upon being requested so to do by the Surveyor-General, or on his behalf as aforesaid, or if such alleged owner, or agent, or occupier shall refuse to produce to the Surveyor-General, or to any person on his behalf, within ten days after being requested so to do, every deed, document, and instrument upon which he founds his claim to the said land or premises, and which shall be in his possession, or, if any such deed, document, or instrument shall not be in his possession, shall refuse fully to inform the Surveyor-General, or any person on his behalf, upon application, in whose possession they are; or if any person having in his possession any such deed, document, or instrument shall refuse to produce the same within ten days after having been requested so to do in writing by the Surveyor-General, or on his behalf, every such agent, occupier, alleged owner, and person so refusing shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding five pounds.

Demand of production of deed to include power of examination.

2 The deeds, documents, and instruments in the preceding clause mentioned shall be produced on the premises to which the same may relate, or at such other place as the person demanding the same may require, and the power of demanding the production thereof, in the preceding clause given, shall be deemed and taken to include the power of making such examination of such deeds, documents, and instruments as shall be necessary; and every person refusing or failing to permit such examination of any such deed, document, or instrument, to any party authorized under this Ordinance to demand production thereof, and making such demand, shall be liable to a fine not exceeding five pounds.

Surveyor-General may enter into and survey lands.

3 The Surveyor-General, or any of his assistants, or any person authorized in that behalf in writing by the Surveyor-General, may, after reasonable notice given to the occupier, enter upon any land or premises which it may be necessary for him to inspect or survey, and make such inspection and survey of the same as shall be necessary to enable such Surveyor-General, assistant, or other person to ascertain whether such land or premises belongs to Her Majesty, or is the private property of the person claiming the same. General

Digitized by Google

notice, by beat of tom-tom, an hour at least before the entry, that such entry will be made upon the lands in any village, or within any given limits, shall be deemed reasonable notice for the purposes of this Ordinance; but such form of notice shall not preclude the Surveyor-General or his assistants from adopting any other form.

Penalty on abuse of power by Surveyor-General, &c.

5 If the Surveyor-General, or any of his assistants, or any person authorized by him as aforesaid, or any person acting under his orders, shall, under pretence of performing any duty or exercising any privilege imposed on or vested in him by or under this Ordinance, abuse his power or use unnecessary violence, or wantonly do any injury, or give uncalled for and vexatious annoyance, every such officer or person shall be guilty of an offence, and be liable to a fine not exceeding twenty pounds.

Proof of plans signed by the Surveyor-General.

6 If any plan or survey offered in evidence in any suit shall purport to be signed by the Surveyor-General or officer acting on his behalf, such plan or survey shall be received in evidence, and may be taken to be *primâ facie* proof of the facts exhibited therein; and it shall not be necessary to prove that it was in fact signed by the Surveyor-General or officer acting on his behalf, nor that it was made by his authority, nor that the same is accurate, until evidence to the contrary shall have first been given.

Copies purporting to be authenticated by the Surveyor-General receivable instead of originals.

7 Any plan or survey purporting to be a true copy of one purporting to be signed as aforesaid shall, provided the said copy purport to be signed and authenticated by the Surveyor-General or officer acting on his behalf as a true copy of the original, be received in evidence in all cases and for all purposes instead of the original, and may (without proof that the original is not procurable) be taken as *primâ facie* evidence of the truth of the facts exhibited therein as fully as that original may be under this Ordinance; and it shall not be necessary to prove that the said copy was in fact signed or authenticated by the Surveyor-General or officer acting on his behalf, nor that it is a true copy, nor that the facts established therein are accurate, until evidence to the contrary shall have first been given.

8 This Ordinance shall come into operation from the date of the passing thereof.

17th October, 1866.

No. 6 of 1866.

An Ordinance to compel the registration of old Deeds and other Instruments of Title.

(*See No. 15 of 1867.*)

Preamble.

WHEREAS false deeds, sannases, and olas, purporting to bear old dates, are not uncommonly produced in evidence in courts of justice, and it is expedient to provide against them: It is therefore hereby enacted as follows:

Digitized by Google

Registration of Deeds.

Commencement.

1 This Ordinance shall come into operation from the date of the passing thereof.

Deeds, &c., not registered not admissible in evidence after January, 1868.

2 All persons holding or claiming title under deeds, sannases, olas, or other instruments on which title to land or other immovable property is founded, which bear date on or before the 1st day of February, 1840, are hereby required to produce the same before the registrar of lands for the district within which such persons shall respectively reside, on or before the 31st day of December, 1867. If such registrar shall reside at an inconvenient distance, such deeds, sannases, olas, or other instruments may be produced before the nearest commissioner of requests or police magistrate, whose duty it shall be to forward the same safely and expeditiously to the registrar of lands for the purposes of registration under this Ordinance: Provided that it shall be lawful for the Governor, with the advice of the Executive Council, by Proclamation in the *Government Gazette*, to extend the time hereinbefore limited for the production of deeds, sannases, olas, or other instruments, either as respects the colony generally or any particular province or district thereof.

Proviso as to extension of time for producing deeds, &c.

Registrar to cause exact copy to be made.

3 The registrar of lands shall thereupon cause an exact copy of the said deed, sannas, ola, or other instrument to be made, which said copy shall show the alterations, erasures, interlineations, or other suspicious marks, if any, which may appear in the original, and shall cause such copy to be carefully filed and preserved in his office, and the original to be returned to the person from whom he received the same, with the registrar's endorsement written on some conspicuous part of the deed, ola, or other instrument, and engraved on the sannas, to show that the same was produced before him and the date of such production.

Monthly lists of such deeds, &c., to be made.

4 The registrar shall also cause a list in duplicate to be made monthly of all deeds, sannases, olas, or other instruments produced before him under the provisions of this Ordinance, giving all necessary particulars thereof, and shall transmit one to the Registrar-General of Lands, and shall file the other in his own office.

General lists thereof to be kept.

5 For facility of reference, a general list, either in alphabetical or other convenient order, shall be made and preserved of all such deeds, sannases, olas, or other instruments in the offices of the Registrar-General and district registrar.

Process where persons claiming interest under deeds, &c., are unable to produce the same.

6 If any person shall claim interest under any such deeds, sannases, olas, or other instruments, but is unable to produce them owing to their being in the possession of another who refuses to part with them, he shall inform the same to the registrar, who shall thereupon cause such other person to be noticed to produce them. Any person noticed as aforesaid who fails or refuses to produce any such deed, sannas, ola, or other instrument, shall be liable to a fine not exceeding one pound for every day he so fails or refuses to produce the same.

Digitized by Google

7 From and after the 1st day of January, 1868, or in case of the time having been extended as hereinbefore provided, from and after the expiry of such extended time, either in the colony generally or the particular province or district in respect of which such extension shall have been made, no deed, sannas, ola, or other instrument as aforesaid shall be received in evidence in any civil proceeding in any court of justice for the purposes of creating, transferring, or extinguishing any right or obligation, unless such deed, sannas, ola, or other instrument shall have been previously registered in the manner hereinbefore directed: Provided that if it shall be established to the satisfaction of the court before which any such deed, sannas, ola, or other instrument is produced that the same was not registered owing to the absence from the island of the holder thereof, or of his being under some legal disability, or from other causes utterly beyond the control of the person producing it in evidence, such court may allow the production of such deed, sannas, ola, or instrument, and the same shall be received in evidence notwithstanding that the same shall not have been previously registered as herein directed: Provided also that nothing in this Ordinance contained shall be held to prevent parties questioning any deed, sannas, ola, or other instrument which may be produced in evidence notwithstanding that the same shall have been registered, and on grounds other than the registration thereof, and on which said other grounds the court before which the question shall arise shall determine as if this Ordinance had not been passed.

All deeds, sannases, olas, &c., executed before 1st February, 1840, to be produced to registrar of lands.

Proviso.

Second proviso.

8 Nothing in this Ordinance contained shall affect any deed, sannas, ola, or other instrument which is annexed to other deeds or instruments of title bearing date subsequent to the First February, 1840, and which said other deeds or instruments of title have been *bonâ fide* transferred and registered as has heretofore been required by law.

Deeds, &c., annexed to others, &c., not affected.

17th October, 1866.

No. 15 of 1867.

An Ordinance to amend the Ordinance No. 6 of 1866.

WHEREAS it has been represented to the Government that it would be almost impracticable in many places to comply strictly with the provisions of section 3 of the Ordinance No. 6 of 1866, entitled "An Ordinance to compel the registration of old Deeds and other Instruments of Title," and that the object aimed at by that Ordinance would be gained by simple registration, without requiring exact copies to be taken in such places: It is hereby enacted as follows:

Preamble.

1 It shall be lawful for the Governor, with the advice of the Executive Council, from time to time, by Proclamation to be published in the *Government Gazette*, to dispense in any district or districts of this island with the provisions contained in section 3 of the said Ordinance, so far as they relate to the taking of exact copies of deeds, olas, or other instruments, and to authorize the registrar of lands of such district or districts to register the substance of such

Governor may dispense with the taking of deeds and copies in any district or districts.

Digitized by Google

deeds, olas, or other instruments, in such form and with such particulars as shall be prescribed in the said Proclamation; and the registrar shall in such cases cause the registry so made by him to be carefully filed and preserved in his office, and the original to be returned, with his endorsement as provided in the said section, to the person from whom he received the same.

Provision of section 7 of the Ordinance will apply to such registries.

2 In those places in which the taking of copies shall be dispensed with as hereinbefore provided, the provision in section 7 of the said Ordinance shall apply to the deeds, olas, or other instruments registered as required by the said Proclamation, as if the same shall have been registered in the manner directed by the said Ordinance.

This Ordinance and Ordinance No. 6 of 1866 to be read as one.

3 This Ordinance and the Ordinance No. 6 of 1866 shall be read and construed as if they formed one Ordinance.

11th December, 1867.

No. 7 of 1866.

An Ordinance relating to the Police Force.

(*See under No. 16 of 1865, page 517.*)

No. 8 of 1866.

An Ordinance to provide against the spread of Contagious Diseases in this Island.*

(*As amended by No. 3 of 1897.*)

(*See No. 3 of 1897.*)

Preamble.

WHEREAS it is desirable to provide against the introduction and spread of certain malignant diseases generally believed to be of a contagious or infectious nature: It is enacted as follows:

Repeal of Ordinance No. 10 of 1852.

1 The Ordinance No. 10 of 1852, entitled "An Ordinance to amend the laws relating to Smallpox Quarantine, and for preventing the spread of certain Contagious Diseases in this Island," is repealed.

Board of health within each province.

Proviso in case of municipalities.

2 For the purposes of this Ordinance, it shall be lawful for the Governor from time to time to appoint within each province two or more persons to form the board of health in such province, and, if need be, to remove such persons, or any of them, and to appoint others in their place: Provided that if any town in such province shall have been heretofore, or shall be hereafter, created a municipality, the municipal council of such town shall form the board of health thereof, and shall exercise the powers and shall be subject to the obligations vested in boards of health by this Ordinance, by the Ordinance No. 15 of 1862, entitled "The Nuisances Ordinance, 1862," and by any other Ordinance now in force or to be hereafter enacted: Provided further that, except in

Second proviso.

* Boards of health are preserved by section 2 of this Ordinance.

Digitized by Google

the case of municipalities, the boards constituted and appointed under the Ordinance No. 10 of 1852 shall continue to act as boards of health under the present enactment until other appointments shall have been made.

Cases of smallpox or cholera, &c., to be reported.

3 Every householder residing in this colony shall be bound to report, with the least possible delay, to the superintendent of police, or to some inspector of police, or to some police constable or headman of his town or village, every case occurring in the house in which he resides of smallpox, cholera, or other disease which may from time to time be named by the Governor in a Proclamation to be by him for that purpose issued, and any householder neglecting to make such report shall be liable on conviction thereof to a fine not exceeding two pounds; and every inspector of police, police constable, or headman, to whom any such case shall be reported by such householder, or by any other person, or who shall know of the existence of any such case within such town or village, shall forthwith report the same to the superintendent of police or to some justice of the peace for the district in which such town or village is situated.

Medical man to report such cases if not already reported.

4 The medical attendant of any person attacked with smallpox, cholera, or other disease as aforesaid shall be bound to report the same with all convenient despatch to the superintendent of police of the town, or to some inspector of police, or to some police constable or headman of the town or village in which such person resides, unless such medical attendant has credible information that such case has already been reported; and any medical man neglecting to make such report, he not having received credible information that the case has been already reported, shall be liable on conviction thereof to a fine not exceeding five pounds.

Houses infected with smallpox may be marked.

5 The superintendent of police of the town or place, or any police magistrate for the district in which any case of smallpox occurs, shall be entitled, if he shall see occasion, to place or cause to be placed on the wall or door of the house or building in which such disease exists any mark which he may think advisable for the purpose of denoting the existence of the disease, and to keep such mark affixed for such time as he may deem necessary; and any person removing or obliterating any such mark without the authority of such superintendent of police or police magistrate, shall on conviction thereof be liable to a fine not exceeding five pounds.

Penalty for removing mark.

On application of the head of a family, an affected person may be removed to hospital.

6 It shall be lawful for the superintendent of police of the town or place, or for any justice of the peace for the district in which any case of smallpox, cholera, or other disease as aforesaid occurs, upon the application of the head of a family or of the owner or occupier of the house in which such case occurs, to make an order in writing for the removal of the person affected with the disease (in such manner and with such precautions as he shall deem necessary) to some public hospital or place provided by Government for

Digitized by Google

the reception of persons so affected, and for the detention of such person therein under proper medical care, for such time as the medical officer in charge of such hospital or place shall deem necessary; and any person resisting or preventing the removal of any other person for whose removal an order has been given on such application as aforesaid, shall on conviction thereof be liable to a fine not exceeding five pounds.

Penalty on person resisting removal.

Persons going about whilst the smallpox is upon them may be taken to the hospital.

7 It shall be lawful for any inspector of police, police constable, or headman of any town or village, forthwith to take and remove to the nearest hospital or place provided by Government for the reception of smallpox patients any person who shall be found in any street, thoroughfare, or public place in any such town or village whilst the smallpox disease is upon such person.

Penalty on persons affected with smallpox wilfully going abroad.

8 Any person affected with smallpox, and who knowing himself to be so affected shall wilfully go abroad into any street, thoroughfare, or public place, and any person who shall wilfully expose or take any child or other person affected with smallpox, knowing such child or person to be so affected, in or to any street, thoroughfare, or public place, shall on conviction thereof be liable to a fine not exceeding five pounds.

License required by Nuisance Ordinance, 1862, to be issued by board of health.

9 The license required by section 4 of the Ordinance No. 15 of 1862 shall be issued by the board of health of the province, and not by the government agent or assistant government agent, as is therein required, but if any town within such province shall have a municipality the said license shall be issued by the municipal council of such town: Provided that the sum payable on account of such license shall be carried to the credit of the general revenue, except where there is a municipality, when it shall be received by the municipal council and form part of its funds.

10, 11 Repealed by No. 3 of 1897.

Commencement.

12 This Ordinance shall come into operation from the date of the passing thereof.

27th October, 1866.

No. 3 of 1897.

An Ordinance to make provision for preventing the introduction and spread of the Plague and other Contagious and Infectious Diseases.

Preamble.

WHEREAS it is expedient to empower the Governor, with the advice of the Executive Council, to make regulations for preventing the introduction into the island of the plague and all other contagious and infectious diseases, and for preventing the spread of such diseases in the island: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Short title.

1 This Ordinance may be cited as "The Quarantine and Prevention of Diseases Ordinance, 1897."

Digitized by Google

2 (1) Sections 10 and 11 of the Ordinance No. 8 of 1866, and the Ordinance No. 3 of 1881, are hereby repealed, but this repeal shall not affect the past operation of those enactments or of any regulations or orders made thereunder, or the validity or invalidity of anything done or suffered under those enactments before the passing hereof, or interfere with the institution or prosecution of any proceeding in respect of any offence committed or any penalty incurred against or under the said enactments or either of them. Repeal.

(2) Notwithstanding this repeal every regulation or order made or purporting to be made under the repealed enactments shall continue and be as if this Ordinance had not been passed, but so that the same shall be as valid and may be revoked, altered, or otherwise dealt with under this Ordinance as if it had been made under this Ordinance, and any contravention or breach thereof of which after the passing of this Ordinance any person is guilty may be punished in like manner as if it were a contravention or breach of a regulation made under this Ordinance.

3 In this Ordinance, and any regulations made thereunder, unless the context otherwise requires— Interpretation.

"Goods" shall mean goods, wares and merchandise, furniture, packets, packages, baggage, wearing apparel, books, letters, or any other article whatsoever; and shall include animals.

"Disease" shall mean any disease of a contagious, infectious, or epidemic nature.

"Diseased" shall mean infected or suspected of being infected with "disease."

4 The Governor, with the advice of the Executive Council, may from time to time make, and when made revoke or vary, such regulations as may seem necessary or expedient for the purpose of preventing the introduction into the island of any disease, and also preventing the spread of any disease. Regulations.

5 (1) The regulations made under the last preceding section may provide, amongst other things— Matters in respect of which regulations may be made.

(*a*) For placing vessels and boats arriving at any port or place in the island in quarantine.

(*b*) For placing persons or goods coming or brought in such vessels or boats in quarantine.

(*c*) For prohibiting or regulating the landing of persons or goods from vessels or boats either absolutely or conditionally.

(*d*) For establishing and maintaining quarantine stations, and for regulating the management of the same, and for the charging, imposing, and recovering of fees for the use and occupation of such stations, and for the cost of maintenance of the persons occupying the same.

(*e*) For inspecting vessels and boats leaving or arriving at any port or place in the island, and for the detention thereof or of any person intending to sail therein, as may be necessary.

(*f*) For inspecting persons travelling by railway or otherwise, and for segregating in hospitals or otherwise persons diseased.

(*g*) For isolating all cases of disease and diseased persons.

(*h*) For closing wells, pits, cesspits, and cesspools.

(*i*) For prescribing the mode of burial or cremation of any person dying of disease.

(*j*) For regulating the number of persons to be allowed to inhabit any dwelling place.

Digitized by Google

(*k*) For the removal from infected localities to places of observation or other places of persons found in such localities.

(*l*) For the removal of diseased persons to hospitals or other places for medical treatment, and for their detention until they can be discharged with safety to the public.

(*m*) For the cleansing and disinfecting of drains, sewers, cesspits, and of houses, buildings, rooms, and other places which have been occupied by any diseased person, or which are otherwise in an insanitary condition, and, if expedient, for destroying the same, with or without compensation as may be deemed expedient.

(*n*) For the disinfecting and, if expedient, destroying, with or without compensation as may be deemed expedient, goods which have been in contact with any diseased person, or which may be deemed capable of spreading disease.

(*o*) For prescribing and regulating the seizure, detention, and destruction or disposal of any goods landed or otherwise dealt with in contravention of any regulation made under this Ordinance, and for prescribing and regulating the liability of the owner, or consignor or consignee or importer of the goods, for the expenses connected with the seizure, detention, and destruction or disposal thereof.

(*p*) For prescribing the reporting to such officer or officers as may be named in the regulations, by medical practitioners and persons professing to treat diseases, of cases of disease treated by them.

(*q*) For prescribing the reporting by the householder or occupier of any house or premises to such officer or officers as may be named in the regulations of any case of serious illness occurring in any such house or premises; and the visiting and inspecting of such case by such officer or officers.

(*r*) For the appointment of inspectors and other officers to carry out the provisions of this Ordinance or of any regulations made thereunder, and for regulating their duties and conduct, and for investing them with all powers necessary for the due execution of their duties.

(*s*) For prescribing the publication of any regulations made under this Ordinance, and for prescribing and regulating the form and mode of service or delivery of notices and other documents.

(2) Provided always that nothing in this section contained shall in any way restrict or be construed to restrict the generality of the powers conferred on the Governor by the last preceding section, but such powers shall extend to all matters whether similar or not to those in this section mentioned, as to which it may be expedient to make regulations for the better carrying into effect of the objects of this Ordinance.

Offence.

6 (1) If any person, without lawful authority or excuse (proof whereof shall lie on him), contravenes any regulation made under this Ordinance, or does or omits to do anything which under the provisions of this Ordinance or of any regulations made thereunder he ought not to do or omit, or if he obstructs or impedes or assists in obstructing or impeding any inspector or other officer appointed under this Ordinance, or any police officer in the execution of any provision of this Ordinance or of any regulation made thereunder, he shall be guilty of an offence against this Ordinance.

(2) Every prosecution for an offence against this Ordinance may be instituted in the police court of the division in which the offence was committed, and such court may impose the full penalties herein

Digitized by Google

prescribed, anything in the Criminal Procedure Code or in any other Ordinance to the contrary notwithstanding.

7 (1) If any person is guilty of an offence against this Ordinance, he shall be liable on conviction before a police magistrate to imprisonment of either description for a term not exceeding six months or to a fine not exceeding one thousand rupees, or to both. Punishment.

(2) Nothing in this section contained shall affect the liability of any person to any punishment or penalty to which he is liable at common law, or under any enactment other than this Ordinance, but so that a person shall not be punished twice for the same offence.

8 (1) When a person is seen or found committing or is reasonably suspected of being engaged in committing an offence against this Ordinance, any inspector or other officer appointed under this Ordinance or any police officer may without warrant stop and detain him, and if his name and address are not known may without warrant apprehend him. Duties of inspectors and police officers.

(2) If any person obstructs or impedes an inspector or other officer appointed under this Ordinance, or any police officer in the execution of any provision of this Ordinance or of any regulation made thereunder, or assists in any such obstructing or impeding, he may be apprehended by such inspector or other officer or police officer without warrant.

(3) A person apprehended under this section shall be taken with all practicable speed before a police magistrate.

(4) Nothing in this section shall take away or abridge any power or authority that a police officer would have had if this section had not been enacted.

9 Where the person in charge of a diseased person is charged with an offence against this Ordinance relative to such disease, he shall be presumed to have known of the existence of such disease in such person, unless and until he shows to the satisfaction of the police magistrate before whom he is charged that he had not such knowledge, and could not with reasonable diligence have obtained such knowledge. Presumption.

10 Inspectors and other officers appointed under this Ordinance shall be deemed public servants within the meaning of the Penal Code. Officers to be public servants.

11 Whenever any person shall have been landed at any port or place in the island for the purpose of performing quarantine, or for medical treatment, or on the ground that such person is alleged to be of unsound mind, the vessel from which such person shall have been landed shall not be entitled to receive a port clearance until sufficient security to the satisfaction of the principal officer of customs shall have been given by the master, agent, or consignee of such vessel to the principal officer of customs for the repayment to the Government of all expenses which may be incurred by the Government in respect of such person, and also the necessary passage money of such person to the place of his original destination should such person not be conveyed thither in the vessel from which he may have landed. Master, agent, or consignee of ship landing person in certain cases to give security for expenses.

12 The Governor, with the advice of the Executive Council, may delegate the enforcement and execution of any regulation made under this Ordinance to any municipal or local authority, subject to such restrictions as the Governor with the like advice may from time to time think fit to impose. Execution of regulations may be delegated to local authority.

13 All regulations made under this Ordinance shall be published in the *Government Gazette*, and shall from the date of such publication have the same force as if they had been enacted in this Ordinance. Regulations to be published.

9th February, 1897.

Digitized by Google

No. 15 of 1866.

An Ordinance relating to Arbitration and Awards, and to provide for summary reference to Courts.

(*Partly repealed by " The Civil Procedure Code, 1889."*)

Preamble.

WHEREAS it is expedient to facilitate the settlement of differences by arbitration, and by summary recourse to courts: It is therefore hereby enacted as follows:

Short title.

1 This Ordinance may be cited for all purposes as "The Arbitration Ordinance, 1866."

Commencement.

2 This Ordinance shall come into operation on the date of the passing thereof.

I.—*Reference to Arbitration.*

All civil matters may be referred to arbitration.

3 All matters in dispute between parties, which may form the subject of civil action, and not that of an indictment or criminal proceeding, may be submitted to arbitration.

Arbitration may be compulsory or voluntary.

4 A submission to arbitration may be *compulsory* by order of court, or *voluntary* by the consent of parties.

II.—*Compulsory Reference.*

Power of court to direct arbitration.

5 If at any time after the institution of an action it shall appear to the satisfaction of the court that it relates wholly or in part to matters of mere account of an intricate and complicated character, which cannot conveniently be tried in the ordinary way, it shall be lawful for such court to order that such matters, either wholly or in part, be referred to one or more arbitrators to be nominated by the parties, or, if they cannot agree or refuse to nominate them, by the court itself upon such terms as to the costs and otherwise as such court shall think reasonable. The award of the arbitrators or of the umpire shall be reported to the court, and shall, subject to the provisions hereinafter contained, be treated as if it were a finding of the court on the particular matter referred to arbitration.

Court may determine, however, any particular questions of fact or law upon which allowance of any item of account may depend.

6 If at the time of making reference, or at any time thereafter, it shall appear to the court, on a report to that effect made by the arbitrators, that the allowance or disallowance of any particular item in such account depends upon a question of law fit to be decided by the court, it shall be lawful for such court to try and determine such question, and the finding of the court thereupon shall be taken and acted upon by the arbitrators as conclusive.

Power to send back to arbitrators.

7 In every case where reference shall be made to arbitration by the order of court as aforesaid, the court shall, in addition to the general power to remit conferred upon it by section 26, have power from time to time to remit the matters referred, or any of them, for the re-consideration and re-determination of the said arbitrators or umpire upon such terms as to costs and otherwise as to the court may seem proper.

Digitized by Google

8 Whenever the parties to any deed or instrument in writing to be hereafter made or executed, or any of them, shall agree that any existing or future differences between them shall be referred to arbitration, and any one or more of the said parties, or any person claiming through or under them, shall nevertheless commence any action against the other party, or against any person claiming through or under them, in respect of the matters so agreed to be referred, it shall be lawful for the court in which the action is brought, on application by the defendants, or any of them, upon being satisfied that no sufficient reason exists why such matters cannot be referred to arbitration according to such agreement as aforesaid, and that the defendants or any of them were, at the time of the bringing of such action, and still are, ready and willing to join and concur in all acts necessary and proper for causing such matters to be decided by arbitration, to make an order staying all proceedings in such action, and compelling reference to arbitration on such terms as to costs and otherwise as to such court may seem fit: Provided always that any such rule or order may, at any time afterwards, be discharged or varied as justice may require.

If action commenced by one party after all have agreed to arbitration, court may stay proceedings.

9 The proceedings upon any compulsory arbitration shall, unless otherwise directed hereby, or by the deed or instrument authorizing the reference, be conducted in like manner, and subject to the same rules as to the power of the arbitrator and of the court, the attendance of witnesses, the production of documents, the enforcing or setting aside the award, and otherwise, as upon a reference made by consent under a rule of court.

Proceedings before, and power of such arbitrator.

10–19 Repealed by No. 2 of 1889.

IV.—*Proceedings before Arbitrators.**

20 When a reference is made to arbitration by an order of court, or in pursuance of an agreement that such reference shall be made an order of court, the court shall issue the same process to the parties and witnesses whom the arbitrators or umpire may desire to have examined as the court is authorized to issue in suits tried before it; and persons not attending in consequence of such process, or making any other default, or refusing to give their testimony, or being guilty of any contempt to the arbitrators or umpire during the investigation of the suit, shall be made subject to the like disadvantages, penalties, and punishments, by order of the court, on the representation of the arbitrators or umpire, as they would incur for the same offence in suits tried before the court.

Power of arbitrators appointed under order of court or in pursuance of submission which may be made on rule of court.

21 When in any order of reference, or in any submission to arbitration, containing an agreement that the submission shall be made a rule or order of court, it shall be ordered or agreed that the parties and witnesses upon such references shall be examined upon oath, it shall be lawful for the

When arbitrators may administer oath; false oath before them made perjury.

* Voluntary references under this chapter and chapter V. (sections 20 to 29) are repealed by No. 2 of 1889.

Digitized by Google

arbitrators or umpire, or any one arbitrator, and they are hereby authorized and required, to administer oaths to such witnesses, or to take their affirmation, in cases where affirmation is allowed by law instead of oath; and if, upon such oath or affirmation, any person making the same shall wilfully and corruptly give false evidence, every person so offending shall be deemed and taken to be guilty of perjury, and shall be prosecuted and punished accordingly.

Award to be made in three months unless parties or court enlarge time.

22 The arbitrators acting under any deed of submission, or compulsory order of reference, shall make their award under their hand and (unless such document or order shall contain a different limit of time) within three months after they shall have been appointed and shall have entered on the reference, or shall have been called upon to act by a notice in writing from any party, but the court or the parties by consent in writing may enlarge the time for making the award. If no period be stated for the enlargement in such consent or such order for such enlargement, it shall be deemed to be an enlargement for one month; and, in any case when an umpire shall have been appointed, it shall be lawful for him to enter on the reference, in lieu of the arbitrators, if the latter shall have allowed their time, or their extended time, to expire without making an award, or shall have delivered to any party, or to the umpire, a notice in writing stating that they cannot agree.

V.—*Award.*

Award must be signed by party making, and submitted with proceedings, depositions, and exhibits.

23 When an award in a suit shall be made either by the arbitrators or the umpire, it shall be submitted to the court under the signature of the person by whom it may be made, together with all the proceedings, depositions, and exhibits in the suit.

Arbitrators may state their award in the form of a special case.

24 It shall be lawful for the arbitrators or umpire, upon any reference, by an order of court, if they shall think fit, and if it is not provided to the contrary, to state their award as to the whole or any part thereof, in the form of a special case, for the opinion of the court.

When court may modify or correct an award.

25 The court may, on the application of either party, modify or correct an award, where it appears that a part of the award is upon matters not referred to the arbitrators (provided that such part can be separated from the other part and does not affect the decision on the matter referred), or where the award is imperfect in form, or contains any obvious error which can be amended without affecting such decision. The court may also, on such application, make such order as it thinks just respecting the costs of the arbitration, if any question arise respecting such costs and the award contain no sufficient provision concerning them.

When court may remit award.

26 In any of the following cases the court shall have power to remit the award or any of the matters referred to arbitration to the reconsideration of the same arbitrators or umpire, upon such terms as it may think proper; (that is to say,)

Digitized by Google

(1) If the award has left undetermined some of the matters referred to arbitration, or if it determine matters not referred to arbitration:

(2) If the award is so indefinite as to be incapable of execution:

(3) If an objection to the legality of the award is apparent upon the face of the award.

27 No award shall be liable to be set aside except on the ground of corruption or misconduct of the arbitrators or umpire. Any application to set aside an award shall be made within ten days after the same has been submitted to the court and notified to the parties in the suit, and not thereafter. **Setting aside of awards.**

28 If the court shall not see cause to remit the award or any of the matters referred to arbitration for reconsideration in manner aforesaid, and if no application shall have been made to set aside the award, or if the court shall have refused such application, the court shall proceed to pass judgment according to the award, or according to its own opinion on the special case if the award shall have been submitted to it in the form of a special case; and the judgment which shall be so given shall be carried into execution in the same manner as other decrees of the court. In every case in which judgment shall be given according to the award, the judgment shall be final, and shall not be subject to appeal. Where judgment shall be given in any case of compulsory reference, such judgment shall be subject to appeal. **Judgment upon awards.** **Appeal.**

29 If there be no cause pending in court, and the submission has not been made a rule of court, the mode of enforcing the award is by action on the bond of submission. **Proceedings on awards not made a rule of court.**

12th December, 1866.

No. 19 of 1866.

An Ordinance to prevent the unnecessary destruction of Fish.

(*See No. 13 of 1887.*)

WHEREAS much wholesale and wanton destruction of fish, and of the brood, spawn, and fry thereof, results from the use of certain kinds of nets in some parts of the sea coast of this island, and it is expedient to prevent the same: It is therefore hereby enacted as follows: **Preamble.**

1 It shall be lawful for the Governor, with the advice of the Executive Council, from time to time, by Proclamation in the *Government Gazette*, to prohibit the use of certain kinds of nets to be in such Proclamation specified, or to restrict their use to certain places, or to attach such conditions to their use as shall appear expedient to the Governor, with the said advice. **Governor may prohibit the use of certain kinds of nets, or may attach conditions to the use thereof.**

2 Whoever, after such Proclamation, shall use, or join in using, any kind of net so prohibited as aforesaid, or shall **Offence to use nets after**

Digitized by Google

prohibition, or contrary to condition.

use, or join in using them, in restricted places, or shall use, or join in using them, contrary to the conditions which may be attached to such use, shall be guilty of an offence, and shall be liable to a fine not exceeding five pounds, or to imprisonment not exceeding three months, with or without hard labour, or to both; and the net, and other implements belonging thereto, and the fish caught by the same, shall be liable to be seized and disposed of, for the benefit of the Crown, as the police magistrate of the district shall direct.

Commencement.

3 This Ordinance shall come into operation on the date of the passing thereof.

19th December, 1866.

No. 13 of 1887.

An Ordinance to extend the provisions of Ordinance No. 19 of 1866 to places other than parts of the Sea-coast.

Preamble.

WHEREAS it is expedient to extend the provisions of Ordinance No. 19 of 1866, intituled "An Ordinance to prevent the unnecessary destruction of Fish," to places other than parts of the sea-coast of this island: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Governor in Executive Council may prohibit the use of certain kinds of nets in any river, canal, lake, or inland water, or may attach conditions to the use thereof.

1 It shall be lawful for the Governor, with the advice of the Executive Council, from time to time, by Proclamation in the *Government Gazette*, to prohibit in any river, canal, lake, or inland water of this island the use of certain kinds of nets to be in such Proclamation specified, or to restrict their use to certain places, or to attach such conditions to their use as shall appear expedient to the Governor, with the said advice.

Offence.

Penalties.

2 Whosoever after such Proclamation shall use or join in using any kind of nets so prohibited as aforesaid, or shall use or join in using the same contrary to the conditions which may be attached to such use, shall be guilty of an offence, and liable on conviction to a fine not exceeding fifty rupees, or to simple or rigorous imprisonment for any term not exceeding three months, or to both; and the nets and the implements belonging thereto, and the fish caught by the same, shall be liable to be seized and disposed of for the benefit of the Crown, as the police magistrate of the district shall direct.

2nd November, 1887.

No. 21 of 1866.

An Ordinance relating to the Law of Partnership.

Preamble.

WHEREAS it is expedient to amend and declare the law relating to partnership: It is enacted as follows:

Commencement.

1 This Ordinance shall come into operation from the date of the passing thereof.

Interpretation of "person."

2 In the construction of this Ordinance, the word "person" shall include a partnership firm, a joint stock company, and a corporation.

Digitized by Google

3 The advance of money by way of loan to a person engaged or about to engage in any trade or undertaking upon a contract in writing with such person that the lender shall receive a rate of interest varying with the profits, or shall receive a share of the profits arising from carrying on such trade or undertaking, shall not, of itself, constitute the lender a partner with the person carrying on such trade or undertaking, or render him responsible as such. **Lender not a partner by advancing money for share of profits.**

4 No contract for the remuneration of a servant or agent or any person engaged in any trade or undertaking by a share of the profits of such trade or undertaking, shall, of itself, render such servant or agent responsible as a partner therein, nor give him the rights of a partner. **Remuneration of agents, &c., by profits not to make them partners.**

5 No person being the widow or child of the deceased partner of a trader, and receiving by way of annuity a portion of the profits made by such trader in his business, shall, by reason only of such receipt, be deemed to be a partner of, or to be subject to, any liabilities incurred by such trader. **Certain annuitants not to be deemed partners.**

6 No person receiving by way of annuity or otherwise a portion of the profits of any business, in consideration of the sale by him of the goodwill of such business, shall, by reason only of such receipt, be deemed to be a partner of, or be subject to, the liabilities of the person carrying on such business. **Receipt of profits, &c., not to make the seller a partner.**

7 In the event of any such trader as aforesaid being a bankrupt or insolvent, or taking the benefit of any Act for the relief of insolvent debtors, or entering into an arrangement to pay his creditors less than twenty shillings in the pound, or dying in insolvent circumstances, the lender of any such loan as aforesaid shall not be entitled to recover any portion of the profits or interest payable in respect of such loan, nor shall any such vendor of a goodwill as aforesaid be entitled to recover any such profits as aforesaid, until the claims of the other creditors of the said trader for valuable consideration in money or money's worth have been satisfied. **In case of bankruptcy, &c., lender not to rank, as respects profit or interest with other creditors.**

24th December, 1866.

No. 22 of 1866.

An Ordinance to extend the introduction into this Colony of the Law of England in certain cases.

WHEREAS it is expedient to extend the introduction into this colony of the Law of England in certain respects: It is therefore enacted as follows: **Preamble.**

In all questions or issues which may hereafter arise or which may have to be decided in this colony with respect to the law of partnerships, joint stock companies, corporations, banks and banking, principals and agents, carriers by land, life and fire insurance, the law to be administered **Law of England to be observed in all commercial matters.**

Digitized by Google

shall be the same as would be administered in England in the like case, at the corresponding period, if such question or issue had arisen or had to be decided in England, unless in any case other provision is or shall be made by any Ordinance now in force in this colony or hereafter to be enacted : Provided that nothing herein contained shall be taken to introduce into this colony any part of the Law of England relating to the tenure or conveyance, or assurance of, or succession to, any land or other immovable property, or any estate, right, or interest therein.

Proviso.

Commencement.

2 This Ordinance shall come into operation on the date of the passing thereof.

24th December, 1866.

No. 4 of 1867.

An Ordinance to amend and consolidate the Law relating to Fiscals and their Officers.

(*As amended by No. 10 of 1867, No. 3 of 1883, and No. 3 of 1894.*)

(*For the most part repealed by No. 2 of 1889.*)

(*See No. 10 of 1867, No. 16 of 1877, and No. 3 of 1890.*)

Preamble.

WHEREAS it is expedient to amend and consolidate the law relating to fiscals and their officers : It is enacted as follows :

Short title.

1 This Ordinance may be cited for all purposes as "The Fiscals' Ordinance, 1867."

Commencement of Ordinance.

2 This Ordinance shall come into operation on such day as the Governor shall, by Proclamation to be by him for that purpose issued, appoint.

Repeal of former Ordinances and rules.

3 The Ordinances and rules of court set out in the schedule A hereto annexed are hereby repealed, except so far as respects all offences which may have been heretofore committed against the same, or any of them, all rights which shall have accrued, liabilities which shall have been incurred, acts which shall have been done, and all proceedings or matters which shall have taken place thereunder before this Ordinance shall come into force.

Interpretation clause.

4 The following words and expressions in this Ordinance shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant to such construction :

The word "officers" shall mean all persons employed to carry out the provisions of this Ordinance :

The word "court" shall include all courts of justice, and all persons and tribunals possessing judicial and magisterial authority in this island :

Digitized by Google

The word "sentence" shall include all decrees, judgments, or orders of a court:

The word "process" shall include all citations, monitions, summonses, mandates, subpœnas, notices, rules, orders, writs, warrants, and commands issued by a court.

I.—*Fiscals' Department and Officers.*

5 The Governor shall appoint fit and proper persons to exercise the powers and perform the duties of fiscals for the provinces into which this island is now or may be hereafter divided, and deputy fiscals for each of the districts into which the several provinces may be subdivided. Notice of such appointments shall be published in the *Government Gazette*. All appointments to which are attached annual salaries exceeding two hundred pounds payable out of the colonial revenue shall be provisional, and subject to the approval of Her Majesty, her heirs and successors. Each deputy fiscal shall within his own district exercise the powers and perform the duties hereinafter required to be exercised and performed by the fiscal for the province: Provided that the fiscals and deputy fiscals heretofore appointed shall continue to act as such until any new appointment shall be made by the Governor, or until the warrant of deputation given to a deputy fiscal be withdrawn.

Appointment of fiscals and deputy fiscals.

Deputy fiscal to have powers and duties of fiscal, but within his district.

6 No person shall act as deputy fiscal without a warrant of deputation from the fiscal substantially according to the form B in the schedule hereto annexed, and it shall be lawful for the fiscal to grant such warrants to persons other than those appointed by the Governor to act as deputy fiscals, and the last-mentioned persons holding such warrant shall, subject to the directions of the fiscal, have and exercise all the powers granted by this Ordinance to deputy fiscals. Every fiscal granting a warrant of deputation shall, within three days after signing the same, send a copy thereof to the Supreme Court, and to every court having jurisdiction within such deputy's district or division, and also to the Colonial Secretary. Like notice shall be given whenever any fiscal shall revoke a warrant.

Deputy fiscals should hold warrant of deputation from fiscals.

7 Repealed by No. 3 of 1894.

8 For the service and execution of processes issued by the courts in this island the fiscal shall license as many process servers for each district as shall appear to him to be necessary, and the licenses to be issued by him shall be substantially in the form E to the schedule hereto annexed. The fiscal shall also have authority to revoke any license granted by him whenever it shall appear to him necessary to do so: Provided that it shall be lawful for the fiscal or deputy fiscal to appoint, by writing under his hand, any person to execute process in any particular case.

Process servers to be licensed for each district.

Power to revoke license.

9 Whenever satisfactory arrangements can for that purpose be made, it shall be lawful for the fiscal (and not for any deputy fiscal), with the sanction of the Governor, to divide each district into divisions, and to appoint a

Fiscal may subdivide district into divisions, and appoint a marshal for each.

Digitized by Google

marshal for each division. Each marshal shall be answerable for the due and faithful execution and service of process within his division. The warrant appointing such marshals shall be substantially in the form F to the schedule hereto annexed; and the fiscal shall have authority to revoke any warrant granted by him whenever it shall appear to him necessary to do so. Notice of the appointment or of the removal of marshals shall be published in the *Government Gazette*, as also in the division, in such manner as to secure publicity thereto.

Warrant appointing marshal. Fiscal may revoke warrant. Notice of appointment and revocation.

Marshal may be required to give securities.

10 The fiscal may require every marshal to give security by bond for the due performance of the duties entrusted to him, and all officers employed by him, in such sum as shall appear to the fiscal to be necessary.

Marshal may appoint assistant.

11 Every marshal may appoint an assistant under his hand, giving notice to the fiscal of such appointment, and subject to the approval of the fiscal. The marshal shall be civilly responsible for the acts and omissions of his assistant.

Process servers to be employed by marshal.

12 Every marshal shall nominate a sufficient number of process servers for his division, and it shall be incumbent on the fiscal to issue his license, under section 8, to the process servers so nominated: Provided, however, that the marshal shall be civilly responsible for the acts and omissions of the process servers whom he shall nominate and employ.

Governor may appoint clerks and other officers.

13 The Governor may from time to time appoint such clerks, superintendents of processes, and other officers, as to him may appear necessary, to assist the fiscals and deputy fiscals in the exercise and execution of their respective powers and duties.

II.—*Fees.*

Governor may establish fees and charges payable by suitors for the execution and service of their process.

14 It shall be lawful for the Governor, with the advice of the Executive Council, to make and establish rates of fees and charges payable in each province by suitors, for the execution and service of the process issued at their instance or for their benefit, or on their account, by the courts of civil jurisdiction in this island, and to direct the mode in which such fees and charges are to be appropriated, and the form and mode in which the accounts of the department are to be kept and its work carried on; and it shall be lawful for the Governor, with the like advice as aforesaid, from time to time to alter and vary such fees, charges, and directions, as shall appear to him necessary; and such rates of fees and charges, when published in the *Government Gazette*, shall be deemed of force, and shall be payable by each suitor by the use of stamps as provided by section 16; and such fees shall form part of the costs in the cause, and shall be payable by the party whom the court shall condemn to pay costs: Provided that such fees and charges shall in no case exceed the rates specified in schedule G hereto annexed.

Such fees shall be deemed part of costs in the case.

15 Repealed by No. 10 of 1867.

Digitized by Google

16 The fees and charges payable by suitors under section 14 shall be levied by means of stamp duties in manner following : Fees and charges leviable by stamp duty.

(1) Whenever a court shall issue one or more processes for service or execution by a fiscal, the suitor at whose instance, for whose benefit, or on whose account such processes issue, shall be required to supply with such processes a schedule according substantially to the form H hereto annexed ;* and every such schedule shall be on stamped paper not less in value than the aggregate sum due as fees and charges according to the rates established under section 14 for the service of the processes issued with the schedule : Schedule to be supplied with process.

(2) It shall be the duty of the secretary of every district court and the clerk of every court of requests to forward this schedule to the fiscal or deputy fiscal to whom the processes shall be forwarded for execution, and such secretary and clerk shall see that (except in the case referred to in articles 4 and 5 of this section) no process issues from the court without the schedule hereinbefore required, and that such schedule is duly filled up, and also to enter on the record of the case the date of issue of the process, specifying the number thereof, on pain of being themselves made liable for the amount, if any, lost to the fund created by section 15 by the non-issue of such schedule, or by the same being incorrect in any respect. If any process shall have been directed under section 26 to any person other than the fiscal and deputy fiscal, such secretary and clerk shall send the schedule to the fiscal or deputy fiscal within whose district the same has to be served : Duty of secretary and clerk to issue no process without schedule.

(3) No fiscal or deputy fiscal shall cause any process to be executed without a schedule of the required amount (except as provided in articles 4 and 5 of this section) on pain of being himself made liable for the amount, if any, lost to the fund created by section 15 by the want of such schedule : No fiscal to cause process to be executed without schedule.

(4) No Queen's Advocate,† or deputy queen's advocate, or public officer, suing, or being sued, or intervening in any suit in their official capacity, and no person duly admitted to sue, or defend, or intervene as a pauper, shall be required to furnish any such schedule on stamp as is herein provided ; and the secretary or clerk of court shall forward the process, with a schedule not on stamp, on which said schedule, however, shall be marked the value of the stamp duty which would have been payable for such process had the same been issued to any other party. If judgment shall be given in favour of such Public officer suing, intervening, or defending officially, and paupers, exempt from giving stamped schedules in the first instance.

* Now regulated by section 66 of No. 3 of 1890 and part IV. of schedule B thereto.

† See Ordinance No. 1 of 1883.

Digitized by Google

advocate, public officer, or pauper, the value of the stamps which would have been used by him as schedules of processes, if he had not been allowed to proceed without issuing stamps, or the value of such part thereof as shall be decreed by such judgment, shall be paid by the party against whom such judgment shall have been given to the secretary of the district court or clerk of the court of requests; and, in failure of payment, the said secretary or clerk shall insert the said value in the writ of execution issued by the party in whose favour such judgment shall have been given, and shall pay himself the said value when recovered from the first amount levied under the said writ, and before the payment of the other stamp duty due in the said case under the schedule, part 2, to "The Stamp Ordinance, 1861," * annexed. If no such writ shall be issued, the said secretary or clerk shall issue a writ of execution free of stamp duty for the recovery of the said value; and, with the value so recovered, the secretary or clerk shall purchase stamps answering to the value of the schedules which would have been used had such party not been allowed to proceed without using stamps, and forward the same to the fiscal or deputy fiscal, making a note thereof in the record of the case and in the said stamped paper, and such fiscal or deputy fiscal shall include the same in the statements to be furnished by him as hereinbefore provided. If the secretary or clerk shall neglect or fail to perform any duty herein imposed upon him, he shall be held liable for the amount, if any, which may be lost to the fund created by section 15 in consequence of such neglect or failure:

Provision for processes issued by a court at its own instance.

(5) Whenever any court shall order a process, or the issue of any process shall be rendered necessary by or in consequence of the order of any court, and such process shall not have been moved for at the instance of any party to the suit, it shall be the duty of the secretary or the clerk of court to issue such process in the first instance in blank, and the fiscals shall be bound to cause the same to be served though issued in blank; but it shall be incumbent on the judge at any stage of the case, before or after its final settlement, to decree who shall pay the costs of the service of such process, and the party so decreed to pay the same shall be liable to make such payment; and it shall be the duty of the secretary or clerk to enforce payment of the same, and to render account thereof to the fiscal or deputy fiscal in the manner provided by the preceding article for the payment of processes issued without payment having been made in the first instance. If the secretary or clerk

* Repealed by No. 23 of 1871, itself repealed by No. 3 of 1890.

Digitized by Google

shall neglect or fail to perform any duty herein imposed upon him, he shall be held liable for the amount, if any, which may be lost to the fund created under section 15 in consequence of such neglect or failure:

(6) It shall be the duty of each deputy fiscal to transmit to the fiscal on or before the 10th day of every month a statement in such form as the Treasurer shall prescribe, showing the number of processes issued for service in the district, and the value of the stamps used for the schedules forwarded with such processes; and the deputy fiscal shall also transmit to the fiscal the schedules received by him from the different courts: **Deputy fiscal to transmit monthly statement to fiscal of fees due and paid on process.**

(7) On or before the 20th of each month it shall be the duty of the fiscal to forward to the Treasurer a statement, prepared in such form as this officer shall prescribe, showing the number of processes issued for service in the provinces and the value of the stamps used for the schedules; and the fiscal shall transmit with such statement the different schedules received by him to the Treasurer, whose duty it shall be to file the same in his office: **Fiscal to make returns to Treasurer.**

(8) The Treasurer shall render to the Government quarterly statements of the fees and charges levied under this Ordinance, or any other Ordinance in that behalf hereafter enacted, which said statements shall be from time to time laid before the Legislative Council: **Treasurer to render quarterly account to Government.**

(9) The provisions of "The Stamp Ordinance, 1861,"* or any other Ordinance to be in that behalf hereafter enacted, will, so far as they are applicable thereto, be held to apply to the stamps prescribed for schedules under the provisions of this section. **Provisions of Stamp Ordinance to apply to schedules.**

17 The fiscal and deputy fiscal of each province shall keep correct accounts of all fees and charges collected by them under the authority of this Ordinance, other than those in which special directions are given in section 16, and their appropriation, and shall render the same monthly to the Treasurer in such form and with such particulars as the Governor shall direct. **Correct accounts of fees and their appropriation to be kept by fiscals, and forwarded periodically to Government.**

18–25 Repealed by No. 2 of 1889.

23–25 Repealed as regards criminal matters only by No. 3 of 1883, itself repealed by No. 15 of 1898.

26 Whenever any court shall be required to issue any process or to cause any sentence to be executed against any fiscal or deputy fiscal, or whenever it shall appear desirable to such court that, by reason of his near relationship to any of the parties to a suit, or for any other just cause, operating against such fiscal or deputy fiscal personally, and not merely on the ground of convenience, he should not be required to serve or execute the same, it shall be lawful for the court to name and appoint some other fit person to serve, **If fiscal personally interested, service to be made by another to be named by the court.**

* Repealed by No. 23 of 1871, itself repealed by No. 3 of 1890.

Digitized by Google

execute, and return the process, or to execute the sentence, and the same shall thereupon be directed to the person so named, the cause of such special proceeding being suggested and entered on the records of the said court, and being notified at the time to such fiscal or deputy fiscal.

Processes to be forwarded to marshals for execution within their division.

Marshals to administer oaths.

27 Whenever a marshal is appointed for any division, the process to be executed and served in such division may be transmitted to him by the fiscal or deputy fiscal, and he shall be responsible for their due execution and service, of which he shall make due return through the fiscal or deputy fiscal from whom he shall have received the process; and for this end he shall have all the powers and authorities created by this Ordinance and necessary for the execution and service of process and the performance of the duties entrusted to him.

Native headmen to execute process.

28 All native headmen shall, within their local limits, be authorized and required to execute the process which may be duly sent to them for execution, and in the execution thereof they and such subordinate officers as they may employ shall be maintained and protected by law as the officers of such fiscal, although not holding any written deputation or warrant from him further than a copy authenticated by the signature of such fiscal or deputy fiscal, of the process which such headmen shall and may be required to serve or execute.

29–80 Repealed by No. 2 of 1889.

30, 64, 65 Repealed as regards criminal matters only by No. 3 of 1883, itself repealed by No. 15 of 1898.

70, 71 Repealed by No. 16 of 1877.

XVI.—*Miscellaneous.*

Governor may allow fiscal's security to be made available to meet claims on fiscal.

81 It shall be lawful for the Governor to allow the security given by a fiscal, or any part thereof, to be made available for the payment of any sum which such fiscal shall be condemned to pay to any party in an action brought under the provisions of this Ordinance, by an endorsement on a copy of the bond given by the fiscal and his sureties of the nature of the entry M in the schedule hereto annexed, which said endorsement, though not on stamped paper, shall be sufficient to convey to the person in whose favour such endorsement is made the right to sue on such bond, and to derive all benefit and advantage arising therefrom, to the extent to which such security is allowed to be made available.

Fiscal may allow security given by deputy fiscal to be also so made available.

82 It shall be lawful for the fiscal to allow the security given by a deputy fiscal or other officer, or any part thereof, to be made available for the payment of any sum which any party may recover in an action brought by him against such deputy fiscal or other officer as an immediate wrong-doer under the proviso of section 20, by an endorsement made on a copy of the bond given by such deputy fiscal or other officer, and his sureties, of the nature of the entry N in the schedule hereto annexed; which said endorsement, though

Digitized by Google

not on stamped paper, shall be sufficient to convey to the person in whose favour such endorsement is made the right to sue on such bond, and to derive all benefit and advantage arising therefrom, to the extent to which such security is allowed to be made available.

83 Whenever the fiscal or deputy fiscal shall have received security by way of indemnity, it shall be lawful for him to endorse the same to the party seeking to enforce the same or to take action thereunder, by an endorsement on a copy of the bond giving security, of the nature of the entry O in the schedule hereto annexed ; which said entry, though not on stamped paper, shall be sufficient to convey to the person in whose favour the endorsement is made the right to sue on such bond, and to derive all benefit and advantage arising therefrom.

Transfer of indemnity bond.

84 If any question should hereafter arise relating to the matters which form the subject of this enactment, and not herein expressly provided for, the same shall be determined according to the rules of the Roman-Dutch law.

Cases omitted, to be determined according to the Roman-Dutch law.

SCHEDULE.

A (Section 3).

Ordinance No. 1 of 1839.—To amend the law relative to Fiscals and their officers.

Ordinance No. 11 of 1847.—For giving legal effect and validity to transfers of immovable property executed by Deputy Fiscals under writs of execution directed to Fiscals in this Island.

Rules of Court, July 11, 1840.—General rules respecting the duties of Fiscals and touching arrest in mesne process and in execution.

B (Section 6).

I, ———, Fiscal for the ——— Province, do hereby nominate and depute ——— to be my deputy in the said office of Fiscal for the district of ——— during my pleasure.

This ——— day of ———, 18—.

———

Fiscal.

C and D. Repealed by No. 3 of 1894.

E (Section 8).

I, ———, Fiscal for the ——— Province, do hereby license ——— to act as process server for the district of ———.

This ——— day of ———.

A. B.,
Fiscal.

F (Section 9).

I, ———, Fiscal for the ———Province, do hereby appoint ——— to be Marshal for the division of (*here describe same accurately*), under the provisions of "The Fiscals' Ordinance, 1867," and authorize him to perform the duties and exercise the authority of Marshal, for which this shall be his warrant.

This ——— day of ———, 18—.

A. B.,
Fiscal.

Digitized by Google

Fiscals.

G to L. Repealed by No. 3 of 1894.

M (Section 81).

I, ———, Colonial Secretary of the Island of Ceylon, do hereby assign to ——— the right to sue on this bond, and all the benefit and advantage arising therefrom, to the extent of £ ———.

This ——— day of ———, 18—.

By order of the Governor,
C. D.,
Colonial Secretary.

N (Section 82).

I, ———, Fiscal for the ——— Province, do hereby assign to ——— the right to sue on this bond, and all the benefit and advantage arising therefrom, to the extent of £ ———.

This ——— day of ———.

E. F.,
Fiscal.

O (Section 83).

I, ———, the Fiscal (*or* Deputy Fiscal) for the ———, at the request of *A. B.*, the (Plaintiff *or* Defendant) within named, hereby assign to him, the said *A. B.*, the within bond, and all the benefit and advantage arising therefrom.

This ——— day of ——— A.D.

A. B.,
Fiscal *or* Deputy Fiscal.

12th January, 1867.

No. 10 of 1867.

An Ordinance for amending "The Fiscals' Ordinance, 1867."

(*See No. 3 of 1890.*)

Preamble.

WHEREAS it is expedient to amend "The Fiscals' Ordinance, 1867:" It is enacted as follows:

Section 15 of Ordinance No. 4 of 1867 repealed, and this substituted.

1 That section 15 of the Ordinance No. 4 of 1867, "To amend and consolidate the Law relating to Fiscals and their Officers," is repealed, and instead thereof it is provided that the fees and charges collected under section 14 of the said Ordinance shall be paid in, and form part of, the colonial revenue; but the Treasurer shall nevertheless be bound to render to the Government the quarterly statements prescribed by the said Ordinance, to enable the Government to regulate thereby the expenditure of the Fiscals' Department, to remunerate the officers thereof, and otherwise to promote its strength and efficiency.

This and No. 4 of 1867 to be read as one.

2 This Ordinance and the Ordinance No. 4 of 1867 shall be read and construed as if they formed one Ordinance.

6th November, 1867.

Digitized by Google

No. 5 of 1867.

An Ordinance relating to the Assessment of Lands for the maintenance of the Police Force.

(*See under No. 16 of 1865, page 518.*)

No. 7 of 1867.

An Ordinance for the more effectual protection of Her Majesty's Naval and Victualling Stores in this Island.

WHEREAS it is necessary to make provision for the more effectual protection of Her Majesty's naval and victualling stores in this island: It is therefore enacted as follows: **Preamble.**

Marks in schedule appropriated for Her Majesty's naval and victualling stores.

1 The marks described in the schedule to this Ordinance may be applied by the officers of the Admiralty, their contractors and workmen, in or on Her Majesty's naval and victualling stores, to denote Her Majesty's property in stores so marked. If any person without lawful authority (proof of which authority shall lie on the party accused) applies any of the said marks in or on any such stores, he shall be guilty of an offence, and shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour. **Offence.**

Obliteration with intent to conceal Her Majesty's property an offence.

2 If any person, with intent to conceal Her Majesty's property in any naval or victualling stores, takes out, destroys, or obliterates wholly or in part any such mark as aforesaid, he shall be guilty of an offence, and shall be liable, in the discretion of the court before which he shall be tried, to be imprisoned for any term not exceeding two years, with or without hard labour.

Knowingly receiving, &c., marked stores an offence.

3 If any person without lawful authority (proof of which authority shall lie on the party accused) receives, possesses, keeps, sells, or delivers any naval or victualling stores bearing any such mark as aforesaid, knowing them to bear such mark, he shall be guilty of an offence, and shall be liable to be imprisoned for any term not exceeding one year, with or without hard labour: Provided that if the value of such stores does not exceed five pounds such person shall be liable to be tried before a police court, and shall be subject to such punishment as it shall be lawful for the police court to inflict. **Where stores exceed five pounds in value.**

Criminal possession explained.

4 For the purposes of this Ordinance stores shall be deemed to be in the possession or keeping of any person if he knowingly has them in the actual possession or keeping of any other person, or in any house, building, lodging, apartment, field, or place, open or enclosed, whether occupied by himself or not, and whether the same are so had for his own use or benefit or for the use or benefit of another.

Digitized by Google

Government Property.

No unauthorized person to creep, sweep, &c., for stores within 100 yards of dockyards, &c.

5 It shall not be lawful for any person, without permission in writing from the officers of the Admiralty, or from some person authorized by such officers in that behalf, to creep, sweep, dredge, or otherwise search for stores in the sea or any tidal water within 100 yards from any vessel belonging to Her Majesty or in Her Majesty's service, or from any mooring place or anchoring place appropriated to such vessels, or from any moorings belonging to Her Majesty, or from any of Her Majesty's wharves or dock, victualling, or steam factory yards. If any person acts in contravention of this provision, he shall be liable to a penalty not exceeding five pounds, or to be imprisoned for any term not exceeding three months, with or without hard labour.

SCHEDULE.

Marks appropriated for Her Majesty's use in or on Naval and Victualling Stores.

Stores.	Marks.
Hempen cordage and wire rope...	White, black, or coloured worsted threads laid up with the yarns and the wire respectively.
Canvas, fearnought, hammocks, and seamen's bags ...	A blue line in a serpentine form.
Bunting	A double tape in the warp.
Candles	Blue or red cotton threads in each wick, or wicks of red cotton.
Timber, metal, and other stores not before enumerated ...	The broad arrow.

16th October, 1867.

No. 8 of 1867.

An Ordinance to provide for the better protection of Government Property entrusted to the charge of Pioneers, and for the apprehension of Pioneer Deserters.

Preamble.

WHEREAS it is expedient to provide for the better protection of Government property entrusted to the charge of pioneers, and for the speedy apprehension of pioneer deserters: It is enacted as follows:

Repeal of No. 2 of 1866.

1 The Ordinance No. 2 of 1866, entitled "An Ordinance for preventing the sale and unlawful possession of clothes and other articles supplied to Pioneers," is hereby repealed.

Officers commanding pioneer divisions may issue warrants for apprehension of pioneer deserters.

2 It shall be lawful for any officer appointed to the command of a division of pioneers in the department of the Commissioner of Roads, on receiving information of the desertion of any pioneer serving in his division, to issue warrant signed by him in substantially the form A in the schedule annexed, for the apprehension of such pioneer, to be dealt with according to law, wherever he may be found, and

Digitized by Google

to entrust the same for service to any person named therein ; and such warrant shall have force and be in every respect treated and dealt with as if it had been issued by a justice of the peace, and the person named as the server thereof shall be entitled to serve such warrant, and shall for that purpose have all the powers belonging to duly authorized process servers by the laws of this country.

Penalty on any pioneer selling clothes, &c., supplied to him.

3 If any pioneer shall sell, or barter, or give away, or shall wilfully damage or spoil any clothes, tools, arms, or ammunition supplied or entrusted to him as such pioneer, or shall be concerned in or connive at any such sale, exchange, gift, or wilful damaging or spoiling, he shall be guilty of an offence, and shall be liable to imprisonment, with or without hard labour, for any period not exceeding twelve months, or to corporal punishment not exceeding twenty lashes, or to both.

Penalty on persons purchasing, or enticing pioneers to sell, or unlawfully possessing, such clothes, &c.

4 Any person who shall knowingly detain, buy, exchange, or receive from any pioneer or any other person, on any pretence whatever, or shall solicit or entice any pioneer, or shall be employed by any pioneer, knowing him to be such, to sell or barter any clothes, tools, arms, or ammunition, supplied or entrusted to any such pioneer by the Government of this colony, or by any officer thereof, in the execution of his office, or who shall have in his possession or keeping any such clothes, tools, arms, or ammunition as aforesaid, and shall not give a satisfactory account how he came by the same, or shall change the colour of any such clothes as aforesaid, shall be guilty of an offence, and shall be liable to a fine not exceeding twenty pounds, or to imprisonment, with or without hard labour, for any period not exceeding twelve months, or to both ; and if any creditable person shall prove on oath before a justice of the peace, a reasonable cause to suspect that any person has in his possession or on his premises, within the jurisdiction of such justice, any property of the description hereinbefore mentioned, on or with respect to which any such offence shall have been committed, the said justice may grant a warrant to search for such property, as in the case of stolen goods, and if upon search any such property shall be found, the same shall and may be seized by the officer charged with the execution of such warrant, who shall bring the person in whose possession the same shall be found before such justice, to be dealt with according to law.

Police court to have cognizance of offences under sections 3 and 4.

5 It shall be competent for police courts to take cognizance of the offences specified in sections 3 and 4, and to inflict such punishment on the offenders as they are empowered to award in the exercise of their ordinary jurisdiction.

Limitation of prosecution.

6 No prosecution shall be instituted against any person for any offence committed against any of the provisions of this Ordinance unless the same shall be commenced within six months from the time of the commission of such offence.

Digitized by Google

SCHEDULE.

A.

Warrant of Apprehension.

To ———, of ———.

Take into your custody the body of ———, of ———, charged with having quitted the service of the Government without leave or reasonable cause before the end of (his *or* her) term of service (*or* previous warning, *as the case may be*), in breach of the ——— clause of the Ordinance No. 8 of 1867.

Given under my hand this ——— day of ———, 18—.

A. B.,
Officer commanding the ——— Division of Pioneers.

16th October, 1867.

No. 9 of 1867.

An Ordinance to amend "The Joint Stock Companies' Ordinance, 1861."

(*Embodied in No. 4 of 1861, page 289.*)

No. 10 of 1867.

An Ordinance for amending "The Fiscals' Ordinance, 1867."

(*See under No. 4 of 1867, page 552.*)

No. 15 of 1867.

An Ordinance to amend the Ordinance No. 6 of 1866.

(*See under No. 6 of 1866, page 531.*)

No. 16 of 1867.

An Ordinance relating to certain Official Designations.

(*See under No. 16 of 1865, page 519.*)

Digitized by Google

No. 20 of 1867.

An Ordinance to provide for the validity of certain Marriages solemnized and registered by Bogahakumbure Disanayaka Mudiyanselage Appuhami, and to indemnify him from penal consequences.

WHEREAS by the Ordinance No. 13 of 1859, entitled "An Ordinance to amend the Laws of Marriage in the Kandyan Provinces," it is provided that the Governor shall appoint such persons as he should think fit to be the registrars of the districts into which the Kandyan provinces were to be divided for the purposes of registration under that Ordinance: And whereas Bogahakumbure Disanayaka Mudiyanselage Punchirala was appointed by the Governor registrar for the district of Wiyaluwa, in the Central Province: And whereas, during the illness of the said Bogahakumbure Disanayaka Mudiyanselage Punchirala, his brother, Bogahakumbure Disanayaka Mudiyanselage Appuhami, was allowed by the then assistant agent of Badulla on the 9th day of August, 1864, to act as registrar aforesaid, and he has acted as such registrar at various times since that date: And whereas, owing to inadvertence, the name of the said Bogahakumbure Disanayaka Mudiyanselage Appuhami was never formally submitted to the Governor for approval, so that he was not duly appointed by the Governor as registrar of Wiyaluwa, as is by the said Ordinance required: And whereas the said Bogahakumbure Disanayaka Mudiyanselage Appuhami, being advised and *bonâ fide* believing that he was qualified to act as registrar, solemnized and registered several marriages during the times he so acted as aforesaid: And whereas it is expedient to remove all doubts as to the validity of such marriages, and to indemnify the said Bogahakumbure Disanayaka Mudiyanselage Appuhami from all penal consequences: It is therefore hereby enacted as follows: **Preamble.**

1 That all marriages solemnized before and registered by the said Bogahakumbure Disanayaka Mudiyanselage Appuhami, and which said marriages, with the dates and particulars thereof, are given in the schedule hereto annexed, have been, are, and shall be valid and good to all intents and purposes as if the said Bogahakumbure Disanayaka Mudiyanselage Appuhami had been duly appointed registrar, as is by the said Ordinance required, prior to the said marriages having been solemnized before and registered by him: **Marriages solemnized by the said person declared valid.** Provided, however, that nothing herein contained shall be held to prevent parties questioning the said marriages on grounds other than the non-appointment of the said Bogahakumbure Disanayaka Mudiyanselage Appuhami, and on which said other grounds the court before which the question shall arise shall determine as if this Ordinance had not been passed. **Proviso.**

Digitized by Google

The said person indemnified from all penal consequences.

2 The said Bogahakumbure Disanayaka Mudiyanselage Appuhami shall be and is hereby indemnified, freed from and against all penalties, forfeitures, and disabilities whatsoever (if any) incurred or to be incurred by him for or by reason of any infringement by him of the provisions of the said Ordinance or any other Ordinance relating to Kandyan marriages by acting as a registrar of marriages thereof.

Saving clauses.

3 Provided, however, that nothing herein contained shall affect the rights of Her Majesty, her heirs and successors, and of all bodies politic and corporate, and of all other persons, excepting those at whose instance or for whose special benefit this Ordinance has been passed, and those claiming by, from, through, and under them.

Digitized by Google

SCHEDULE.

No. of Entry in the Marriage Register.	Date of Registration.	Names of Parties.	Marriage, old, under No. 8 of 1861, or new, under No. 13 of 1859.
15	1865, Aug. 24	Alutgedara Karunatilaka Disanayaka Mudianselage Seyatro Gammahe of Tundawelagama and Kurawatura Rajapaksa Mudiyanselage Kumarihami.	Old.
16	" "	Idangedara Wikkramasinha Disanayaka Mudiyanselage Hami Gammahe of Bopitiyegama and Idangedara Maliyedde Karunatilaka Disanayaka Mudiyanselage Kirimenika of do.	Old.
17	" "	Bogaha Kumburegedara Tilakasinha Wijayaratna Disanayaka Mudiyanselage Gametirale of Bogaha Kumburegama and Bogaha Kumburegedara Wikkramasinha Disanayaka Mudiyanselage Bopitiye Ukku Menika of do.	Old.
18	1866, Nov. 21	Alakolawattegedara Ratnayaka Mudiyanselage Appuhami of Medamaliyaddegama and Medamaliyaddegedara Kuma of do.	New.
19	1867, April 20	Lunuatugedara Ratnayaka Mudiyanselage Appuhami Gammahe of Bokanoruwagama and Ratnayaka Mudiyanselage Hatkinda Kiri Menika of do.	Old.
20	" 27	Kongahawattegedara Mannapperu Mudiyanselage Danturala of Kubukwalagama and Kongahawattegedara Wirasinha Mudiyanselage Rammenika of do.	Old.
21	" "	Kongahawattegedara Mannapperu Mudiyanselage Kiriwante of Kubukwalagama and Yaddehigedara Mutu Menika of do.	Old.
22	" "	Kongahawattegedara Ekanayaka Mudiyanselage Hami of Kubukwalagama and Kongahawattegedara Mannapperu Mudiyanselage Punchi Menika of do.	Old.
23	" "	Kongahawattegedara Ekanayake Mudiyanselage Gametirale of Kubukwalagama and Lunuatugedara Kuma of Kohana.	New.
24	" 28	Lunuatugedara Ratnayaka Mudiyanselage Hami of Bokanoruwa and Lunuatugedara Kelaniye Bandara Nayake Wijayasuriya Abayakon Mudiyanselage Gamagedara Rammenika of do.	Old.
25	" "	Lunuatugedara Ratnayaka Mudiyanselage Gametirale of Bokanoruwagama and Lunuatugedara Wijayakon Mudiyanselage Kuruellegedara Mutumenika of do.	Old.
26	" "	Gamagedara Kelaniye Bandara Nayaka Wijayasuriya Abayakon Mudiyanselage Appuhami of Galaudagama and Kirindegedara Konura Mudiyanselage Meda Maliyadde Dingiri Menika of do.	Old.
27	" "	Lunuatugedara Ratnayake Mudiyanselage Appuhami of Bokanoruwagama and Liyadipitiyegedara Ratnayaka Mudiyanselage Hudu Etana of do.	Old.
28	" "	Gamagedara Kelaniye Bandara Nayaka Wijayasuriya Abayakon Mudiyanselage Kiriwante of Galaudagama and Lunuatugedara Ratnayaka Mudiyanselage Ukku Menika of do.	New.

Digitized by Google

Validity of certain Marriages.

No. of Entry in the Marriage Register.	Date of Registration.	Names of Parties.	Marriage, old, under No. 8 of 1861, or new, under No. 13 of 1859.
29	1867, April 28	Meda Kumburegedara Aiyappadi Mudiyanselage Punchirala of Galaudagama and Welampillegedara Wirasinha Mudiyanselage Kalu Menika of do.	Old.
30	" "	Hewannilegedara Apareka Rajapaksa Mallika Mudiyanselage Siyatu of Kiriwana Ellegama and Wirahamadagedara Rajapaksa Mudiyanselage Mutu Menika of do.	Old.
31	" 29	Iriyagaha Ulpotegedara Jayawardana Mudiyanselage Appuhami Gammahe of Dadayantalawegama and Gangodagedara Disanayake Mudiyanselage Rammenika of do.	Old.
32	" "	Wakkumburegedara Nawaratna Mudiyanselage Hami Ela Gamarala of Wakkumburegama and Naketgedara Disanayake Mudiyanselage Lat Etana of do.	Old.
33	" "	Wakkumburegedara Nawaratna Mudiyanselage Siyatu of Wakkumburegama and Wakkumburegedara Herat Mudiyanselage Ram Menika of do.	Old.
34	" "	Wakkumburegedara Nawaratna Mudiyanselage Kiriwante of Wakkumburegedara and Wakkumburegedara Disanayake Mudiyanselage Kuma of do.	Old.
35	" "	Idangedara Herat Mudiyanselage Wannakurala Elegamarala of Asseddumegama and Idangedara Rajapaksa Mudiyanselage Ram Menika of do.	New.
36	" "	Nikapitiyegedara Samarakon Jayasundara Mallika Mudiyanselage Appuhami of Kiriwane Ellegama and Lunuatugedara Ratnayake Mudiyanselage Kuma of do.	Old.
37	" "	Alutgedara Mallika Mudiyanselage Widane of Kiriwana Ellegama and Uda Oye Alutgedara Rajapakse Mudiyanselage Dingiri Menika of do.	New.
38	" 30	Watagodagedara Disanayaka Mudiyanselage Wasanahami of Watagodagama and Watagodagedara Herat Mudiyanselage Malaka of do.	New.
39	" "	Idangedara Bannayaka Mudiyanselage Punchirala of Wattewelagama and Idangedara Samarakon Jayasundara Mallika Mudiyanselage Kuma of do.	Old.
40	" "	Weliarawegedara Appukutidewayalage Kuda Duraya of Talakumburegama and Weliarawegedara Hudi of do.	Old.
41	May 2	Tuppitiye Helawattegederekiriwante of Watagodagama and Watagodagedara Ram Menika of do.	New.
42	" "	Metihakkegedara Dasanayaka Mudiyanselage Kiriwante of Bopitiyegama and Idangedara Wikkramasinha Disanayaka Mudiyanselage Mutu Menika of do.	Old.
43	" 4	Tettille-pahalagedara Abarana Deweyalage Kudu Duraya of Galaudagama and Tetillepahalagedara Karuna Deweyalage Ratto of do.	New.
44	" "	Kammalewattegedara Kondasinha Manamindrayalage Appu Naide of Galaudagama and Palle Ellegedara Ukku Etana of do.	Old.
45	" "	Tettillehelagedara Rajapaksa Iirisinha Siripatul Deweyalage Kaluhonda of Galaudagama and Tetillehelagedara Wijayatunda Deweyalage Meniki of do.	Old.

Digitized by Google

Validity of certain Marriages.

46	1867, May	4	Wetahiragallegedara Rammanda Deweyalage Deweya of Watagodagama and Tennehenegedara Abarana Deweyalage Lami of do.	New.
47	„	8	Kottalbaddagedara Ekanayaka Mudiyanselage Punchirala of Bopitigama and Tennakon Mudiyanselage Dingiri Menika of Kansawattegedara in Dehiwinnipalata.	New.
48	„	„	Galkotuwegedara Sewukenda Mudiyanselage Appuhami of Kinahelagama and Kalahakalawegedera Wikkramasinha Tilakaratna Mudiyanselage Ram Menika of do.	Old.
49	„	„	Idangedara Herat Mudiyanselage Kiriwante of Asweddumegama and Lunuatugedara Ratnayaka Mudiyanselage Mutu Menika of do.	New.
50	„	9	Lunuatugedara Ratnayaka Mudiyanselage Widane of Bokanoruwagama and Yalpotagedara Ratnayake Mudianselage Kuma of do.	Old.
51	„	„	Lunuatugedara Ratnayaka Mudiyanselage Banda of Bokanoruwagama and Maussagollegedara Ratnayaka Mudianselage Ukku Menika of do.	Old.
52	„	„	Gamagedara Ratnayaka Mudiyanselage Siyatu of Bokanoruwagama and Galkotuwegedara Ratnayaka Mudiyanselage Kiri Menika of do.	Old.
53	„	10	Siyambalagahawattegedara Wirasinha Rajapaksa Dewayalage Puncha of Yalkumburegama and Agatakumburegedara Yamasinha Dewayalage Girawi of do.	Old.
54	„	„	Alutgedara Abhayakon Mudiyanselage Kiriwante of Galaudagama and Dandukolagedara Ratnayaka Mudianselage Hin Menika of do.	New.
55	„	„	Alutgedara Abhayakon Mudiyanselage Herat Appu of Galaudagama and Ketawala Kumburegedara Manutunga Mudiyanselage Kalu Menika of do.	New.
56	„	„	Ilukwelagedara Abhayakon Mudiyanselage Wannakurala of Galaudagama and Alutgedara Abhayakon Mudiyanselage Dingiri Menika of do.	Old.
57	„	11	Pahalawelagedara Rajapaksa Mudiyanselage Appuhami of Bogahakumburegama and Alakolagollegedara Hitihami Mudiyanselage Ram Menika of do.	Old.
58	„	„	Wattewelagedara Bannayaka Mudiyanselage Kiriwante of Wattewelagama and Pahalawelagedara Rajapaksa Mudiyanselage Kuma of do.	Old.
59	„	„	Liyadipitiyegedara Bannayaka Mudiyanselage Rammalhami of Wattewelagama and Pahalawelegedara Rajapaksa Bannayaka Mudiyanselage Muttu Menika of do.	Old.
60	„	13	Nikapitiyegedara Mallika Mudiyanselage Menikrala of Kiruwanaellagama and Kottalbaddegedara Ekanayaka Mudiyanselage Ran Etana of do.	Old.
61	„	„	Lunuatugedara Ratnayaka Mudiyanselage Herathami of Bokonoruwagama and Velagedara Ratnayaka Mudiyanselage Mutu Menika of do.	Old.
62	„	„	Lunuatugedara Ratnayaka Mudiyanselage Punchirala of Bokonoruwagama and Kirindegedara Konara Mudiyanselage Maliyaddegedara Ram Menika of do.	New.
63	„	„	Metihakkegedara Dasanayaka Mudiyanselage Appuhami of Bopitiyegama and Agalakumburegedara Aiyappadi Mudiyanselage Hudu Etana of do.	Old.
64	„	15	Galkotuwegedara Sowukenda Mudiyanselage Kiriwante of Kinahelagama and Idangedara Samarakon Mudiyanselage Mutu Menika of do.	New.

Digitized by Google

Validity of certain Marriages.

No. of Entry in the Marriage Register.	Date of Registration.	Names of Parties.	Marriage, old, under No. 8 of 1861, or new, under No. 13 of 1869.
65	1867, May 16	Idangedara Samarakon Mudiyanselage Wasanahami of Bopitiyegame and Migaha Ulpotegedere Sellappu Mudiyanselage Kiri Menika of do.	Old.
66	„ „	Idangedara Samarakon Mudiyanselage Gametirala of Bopitiyegama and Migaspitiya Medagedara Tennakon Mudiyanselage Ram Menika of do.	Old.
67	„ „	Nikapitiyegedara Aparekke Rajapakse Mallika Mudiyanselage Kiriwante of Kiriwana Ellagama and Idangedara Samarakon Mudiyanselage Kalu Menika of do.	New.
68	„ „	Wattewelagedara Ratnayaka Mudiyanselage Punchirala of Wattewelegama and Bembiye Alutgedera Sellappu Mudiyanselage Ran Etana of do.	Old.
69	„ „	Idangedara Bannayaka Mudiyanselage Siyatu of Wattewelegama and Narangahagedara Ratnapala Mudiyanselage Kiri Menika of do.	Old.
70	„ 17	Nikapitiyegedara Mallika Mudiyanselage Dingirala of Kiriwana Ellagama and Kolongaswattagedara Atapattu Mudiyanselage Kiri Menika of do.	New.
71	„ 18	Kottalbaddegedara Ekanayaka Mudiyanselage Widane of Bopitiyagama and Hakurekanduregedara Tilakaratna Mudiyanselage Mutu Menika of do.	New.
72	„ 22	Egodagedara Rammanda Deweyalage Puncha of Bogahakumburegama and Galpottegedara Rajapaksa Dewayalage Mahimi of do.	New.
73	„ „	Nikapitiyegedara Mallika Mudiyanselage Siyatu of Kiriwanaellegama and Rotupillegedara Tilakaratna Mudiyanselage Dingiri Menika of do.	New.
74	„ 25	Kottalbaddegedara Aiyappandi Mudiyanselage Siyatu of Bopitiyegedara and Kottalbaddegedara Ekanayaka Mudiyanselage Punchi Menika of do.	Old.
75	„ 28	Idangedara Samarakon Mudiyanselage Appuhami of Bopitiyagama and Polwattegedara Tennakon Mudiyanselage Hami of do.	New.
76	„ 30	Metihakkegedara Dasanayaka Mudiyanselage Hinappu of Bopitiyagama and Palugedara Ratnayaka Mudiyanselage Ram Menika of do.	New.
77	June 14	Lunuatugedara Ratnayaka Mudiyanselage Widane of Bokonoruwagama and Kiwulegedara Karunadhipati Ilankonkadawate Bandara Mudiyanselage Mutu Menika of do.	Old.
78	„ 20	Bandarawattegedara Yapa Mudiyanselage Kiri Banda of Bandarawattegama and Ekiriyawattegedara Danapala Mudiyanselage Ram Menika of Tundawelagama.	New.
79	July 16	Idangedara Mutuwa Durayalage Balaya of Pallekandegama and Etikola Arawegedara Abarana Dewayalage Ungu of do.	New.
80	„ „	Etikola Arawegedara Mutuwa Durayalage Deweya of Pallekandegama and Idangedara Abarana Dewayalage Hudi of do.	Old.

Digitized by Google

Validity of certain Marriages.

81	1867, July 16	Welle Liyaddegedara Nanduwa Durayalage Bolanda of Pallekandegama and Pallegedara Silindu Muttalage Meniki of do.	Old.
82	„ 17	Siyambalagaha Kumburegedara Disanayaka Mudiyanselage Siyatu of Ritigaha Kumburegama and Wattegedara Welimudiyanselage Kumarihami of do.	Old.
83	„ 18	Metihakkegedara Dasanayaka Mudiyanselage Punchirala of Bopitiyagama and Tambalagala Badullegedara Punchi Menika of do.	Old.
84	„ „	Metihakkegedara Dasanayake Mudiyanselage Gam Etirala of Bopitiyagama and Dewetagedara Menikhitihami Mudiyanselage Kuma of do.	New.
85	„ 20	Buduge Kande Pallegedara Silindu Muttalage Subeya of Pallekandegama and Dehigollegedara Rajapaksa Deweyalage Hudi of do.	Old.
86	„ „	Pallegedara Silindu Muttalage Kalinguwa of Pallekandegama and Walapane Kurupanawela Yaddehigedara Hudi of do.	New.
87	„ „	Kandearawegedara Ranatunga Dewayalage Menika of Pallekandegama and Alutgedara Multen Durahelage Dingiri of do.	Old.
88	„ 22	Kammalwattegedara Kondasinha Manamendarayalage Kaluhami of Talakumburegama and Walapone Kupaha Kammalegedara Widanelage Wayran Etana of do.	Old.
89	„ „	Pitapattiyegedara Rajapaksa Idirisinha Siripatuldewayalage Huda Ele Duraya of Talakumburegama and Tetillegedara Wijayatunda Dewayalage Rankiri of do.	Old.
90	„ „	Kammalwattegedara Kondasinha Manamendrayalage Ukku Naide of Talakumburegama and Millapitiye Vidanelage Ukku Etana of do.	Old.
91	„ „	Idangedara Mutuwa Durayalage Kalinguwa of Udawelagama and Bogodapalate Dorakadakumburagedara Ungu of do.	Old.
92	„ „	Udawelegedara Mutuwa Durayalage Binduwa of do. and Idangedara Muttuwa Durayalage Hudi of Udawelagama.	New.
93	„ „	Paragahamadegedara Rajapaksa Sillattana Muttalage Menika of Udawelagama and Udagedara Abarana Dewayalage Menika of do.	Old.
94	„ „	Udagedara Banduwa Durayalage Kalinguwa of Pallekandegama and Udagedara Abarana Dewayalage Hudi of do.	Old.
95	„ „	Idangedara Mutuwa Durayalage Dewaya Kattandiya of Udawelagama and Kanda Arawegedara Ranatunge Dewayalage Sirimali of do.	New.
96	„ „	Hindehigahawattegedara Rajapaksa Dewayalage Menika of Udawelegama and Kehelwattegedara Muttuwa Durayalage Kalu of do.	Old.
97	„ „	Kiriyagalle Idangedara Abarana Dewayalage Hondiya Atapanguwe Duraya of Pallekandegama and Pallewattegedara Idrisinha Dewayalage Kiri of do.	Old.
98	„ 23	Galkotuwegedara Rajapaksa Siripatul Dewayalage Lamada of Talakumburegama and Tetille Udagedara Yamasinha Dewayalage Garu of do.	Old.
99	„ „	Idangedara Abarana Dewayalage Menika of Pallekandegama and Nagollegedara Abarana Dewayalage Sirimali of do.	New.

Digitized by Google

Validity of certain Marriages.

No. of Entry in the Marriage Register.	Date of Registration.	Names of Parties.	Marriage, old, under No. 8 of 1861, or new, under No. 13 of 1859.
100	1867, July 23	Gonapelegedara Karuna Dewayalage Puncha of Talakumburegama and Puwakgollegedara Menika of do.	Old.
101	„ „	Alutgedara Mutuwa Durayalage Sedara Ele Duraya of Udawelegama and Sornatotapalate Pallewattegedara Karuna Dewayalage Mahimi of do.	Old.
102	„ „	Dehiwelagedara Walamini Dewayalage Menika of Godunnegama and Idamewattegedera Rajapaksa Dewayalage Wattu of do.	Old.
103	„ „	Kiriyagallegedara Abarana Dewayalage Ratta Ele Duraya of Pallekandegama and Udulpottagedara Nagasinnan Hali Vidanelage Ratti of do.	Old.
104	„ „	Dehiwelagedara Walamini Dewayalage Huda of Godunnegama and Bulugahakumburegedara Karuna Dewayalage Lami of do.	New.
105	„ „	Bintenna Palate Siyambalagahagedara Jayasundara Patabendi Dewayalage Meddema of Tundawelegama and Palugedera Pitiye Rankuru Dewayalage Huda of do.	Old.
106	„ 24	Kiriyagollegedara Abarana Dewayalage Dewaya of Pallekandegama and Paragahamadagedera Rajapaksa Dewayalage Ratti of do.	Old.
107	„ „	Gonapellegedara Karuna Dewayalage Ratta of Talakumburegama and Weli Arawegedara Appukutti Dewayalage Ukku of do.	Old.
108	„ „	Nigandagalagedara Rajapaksa Dewayalage Sedara of Talakumburegama and Bogodapalata Kehelwattegedara Ganhewayalage Ukku of do.	Old.
109	„ „	Migahawattegedera Karuna Dewayalage Ratta of Talakumburegama and Nigandagalagedara Rajapaksa Dewayalage Punchi of do.	Old.
110	„ „	Wewegedara Wanni Dewayalage Garuwa of Beramadagama and Dehiwelagedara Walimini Dewayalage Lami of do.	New.
111	„ „	Udawelagedara Mutuwa Durayalage Dewaya of Udawelegama and Kimbullewegedara Mutuwa Durayalage Garu of do.	Old.
112	„ „	Agatagedara Karuna Dewayalage Kalinguwa of Udawelagama and Udakohovile Kehelwattegedera Ketawala Vidanelage Ukku of do.	Old.
113	„ „	Kiriyagallegedara Abarana Dewayalage Ukkuwa of Pallekandegama and Udakohowile Egodagahalawattagedara Utumpuli Dewayalage Ukku of do.	Old.
114	„ „	Buduge Kandegedara Abarana Dewayalage Kalinguwa of Pallekandegama and Udakohowile Egodegahalawattegedera Utumpuli Dewayalage Menika of do.	Old.
115	„ 25	Medegedara Rajapaksa Idirisinha Siripatul Dewayalage Galkotuwegedara Kalinguwa of Talakumburegama and Bogodapalate Kitulgahawattagedara Garu.	Old.
116	„ „	Dambagahawattegedera Wisnu Dewayalage Menika of Pallekandegama and Kiriyallagedera Abarana Dewayalage Awissiri.	Old.

Digitized by Google

117	1867, July 25	Dambagahawattagedara Wisnu Dewayalage Puncha of Pallekandegama and Agatagedara Abarana Dewayalage Mahimi.	Old.
118	" "	Kiriyagollegedara Abarana Dewayalage Menika of Pallekandegama and Tennehenegedara Abarana Dewayalage Sirimali of do.	New.
119	" "	Kiriyagalle Idangedara Abarana Dewayalage Jayatuwa of Pallekandegame and Dambagahawattegedara Visnu Dewayalage Kalu of do.	Old.
120	" "	Kimbullewegedara Mutuwa Durayalage Garuwa of Pallekandegama and Kiriyagollegedara Abarana Dewayalage Sirimali of do.	New.
121	" "	Weli Arawegedara Appukutti Dewayalage Sobana of Talakumburegama and Pitapattiyegedara Idrisinha Siripatul Dewayalage Mahimi of do.	Old.
122	" "	Pitapattiyegedara Idrisinha Siripatul Dewayalage Ratta of Talakumburegama and Bogodapalate Andiyawattegedara Hudi of do.	Old.
123	" "	Tennewattegedara Manamendra Patabendige Kiri Naide of Talakumbura and Tennewattegedara Manamendra Patabendige Punchi Etana of do.	New.
124	" "	Kande Arawegedara Rammanda Dewayalage Aruma Atapanguwe Duraya of Tundawelagama and Kandearawegedara Mutuwa Durayalage Kiri of do.	Old.
125	" "	Hiriyalwelagedera Gunawat Bandara Mudiyanselage Punchirala of Medalapitiyegama and Arawegedara Rajapaksa Mudiyanselage Punchi Menika of do.	Old.
126	" "	Nagollegedara Manawira Dewayalage Sedara of Tundawelagama and Mondarakadagedara Rammanda Dewayalage Hudi of do.	Old.
127	" "	Nagollegedara Manawira Dewayalage Menika of Tundawelagama and Pallewattegedara Rammanda Dewayalage Ukku of do.	Old.
128	" "	Welanmadittegedara Rajapaksa Dewayalage Ratta of Udawelagama and Tennehenegedara Ranasinha Dewayalage Mahimi of do.	Old.
129	" "	Kiriyagallegedara Abarana Dewayalage Huda of Pallekandegama and Kandearawegedara Ranatunga Dewayalage Mahimi of do.	Old.
130	" 27	Welleliyaddegedara Abarana Dewayalage Ratta of Pallekandegama and Budugekande Pallegedara Silindu Dewayalage Hudi of do.	Old.
131	" "	Wiyaluwa Korale Etulkola Bopitiyegama Idangedara Nawaratna Samarakon Mudiyanselage Vidane of Bopitiyegama and do. Medalapitiyegama Arawegedara Wikkramasinha Herat Mudiyanselage Dingiri Menika.	Old.
132	" "	Metihakkegedara Dasanayaka Mudiyanselage Appuhami of Bopitiyegama in Wiyaluwa Korle and Medalapitiyegama Arawegedara Wikkramasinha Herat Mudiyanselage Punchimenika of do.	Old.
133	" "	Bogodapalate Udakohowilegama Konahegedara Wanniya of Bopitiyegama in Wiyaluwa and Udawelagama Bulugahawattegedara Meniki.	Old.
134	" "	Dandugalegedara Ratanayaka Mudiyanselage Appuhami of Gala Udagama and Bogodapalate Dewadarawegedara Jayaratna Mudiyanselage Dingirimenika.	Old.
135	" "	Bogodapalate Dewadarawegedara Hami of Gala Udagama and Gala Udagama Ilukwelagedara Dingirimenika.	Old.

Validity of certain Marriages.

No. of Entry in the Marriage Register.	Date of Registration.	Names of Parties.	Marriage, old, under No. 8 of 1861, or new, under No. 13 of 1859.
136	1867, July 27	Udawelagama Agatagedara Abarana Dewayalage Garuwa of Udawelagama and Pallekandegama Kande Aruwegedara Ranatunga Dewayalage Hudi.	Old.
137	" "	Pallewattegedara Walamini Dewayalage Elaluwa of Hapatgamuwegama and Kukul Arawegedara-Utupuli Dewayalage Hudi.	Old.
138	" "	Udulpotagedara Nagasinna Multengevidana Durayalagey Puncha Kattandiya of Udawelagama and Yalkumburegama Udagammeddegedera Abarana Dewayalage Mahimi.	Old.
139	" "	Kitulwattegama Elwatte Ratadodangahawattegedara Yamasinha Dewayalage Kalinguwa of Udawelagama and Udawelagama Udulpotagedara Nagasinna Multenge Vidana Durayalage Kalu.	Old.
140	" "	Pallewattegedara Ratta of Hapatgamuwegama and Kukul Arawegedara Ratti	Old.
141	" "	Kiriyagallegedara Lassama of Hapatgamuwa and Kukul Arawegedara Garu	Old.
142	" "	Dehiwelagedara Menika of Godunnegama and Kukul Arawegedara Ungu of Hapatgamuwa ...	Old.
143	" "	Dehiwelagedara Ukkuwa of Godunnegama and Migahaheligedara Rampati Dewayalage Sedari ...	Old.
144	" "	Alukulpotegedara Walamini Dewayalage Lassama Duraya of Hapatgamuwa and Pallekande-Konagedara Meniki.	Old.
145	" "	Udulpota Pallewattegedara Nagasinna Multenge Vidana Durayalage Subaya and Kimbullewe-gedara Muttuwa Durayalage Ukku of Pallekanda.	Old.
146	" "	Wellassegedara Rantis Durayalage Ratta of Kumbukwalagama and Elewattegedara Hudi of Udagama.	Old.
147	" 28	Puwakwattegedara Karuna Dewayalage Dewaya of Bogahakumbura and Agatakumburegedara Rajapaksa Dewayalage Meniki of Yalkumbura.	Old.
148	" "	Mulatagedara Bannakarallage Punchirala of Wattewela and Jambugaswattegedara Rajapaksa Mudiyanselage Nawaratna.	Old.
149	" "	Idamegedara Appuhami of Idamegama and Mulatagedera Bannekarallage Dingirimenika of Wattawela.	Old.
150	" "	Kimbullewe Medagedara Ukkuwa of Pallekanda and Medawattegedara Mahimi of Berawamada	Old.
151	" "	Kimbullewe Pallegedara Rammanda Dewayalage Menika of Pallekanda and Kimbullewe Medagedara Meniki of Kimbullewa.	Old.
152	" "	Polkotuwegedara Karunaratna Dewayalage Binduwa of Udawela and Udulpotagedara Nagasinna Multenge Vidana Durayalage Hudi.	Old.
153	" "	Godamudunegedara Lassama of Kumbukwela and Kumburegedara Awissiri of Kumbukwela ...	Old.
154	" "	Polkotuwegedara Karunaratna Dewayalage Menika of Udawela and Yatahiragallegedara Karuna Dewayalage Kalu of Watagoda.	Old.
155	" "	Yamasinhalagegedara Ukkuwa of Tetella and Bogoda Palate Wekumbura Ilukgedara Hudi ...	Old.

Digitized by Google

Validity of certain Marriages.

156	1867, July 28	Tennebenegedara Menika of Bogahakumbura and Bulugahawattagedara Awissiri of Udawela ...	Old.
157	„ „	Palugedara Pitiya Puncha of Tundawela and Tettillegedara Meniki of Bokanoruwa ...	Old.
158	„ „	Tettille Pahalagedara Tondana of Kinahela and Ganmilegedara Hudi of Kinahela ...	Old.
159	„ „	Kiriyagollegedara Puncha of Kumbukerela and Kumburegedara Ungu of do.	Old.
160	„ „	Udulpota Pallewattegedara Nagasinnamultenge Durayalage Kalinguwa of Udawela and Kuluwattegedara Meniki.	Old.
161	„ „	Kumburegedara Aruma of Udawela and Kuluwattegedara Hudi of Udawela	Old.
162	„ „	Pallekande Kumburegedara Huda of Udawela and Moragalle Hindehigahawattagedara Sirimali of Udawela.	Old.
163	„ 29	Gonapelessegedara Kalinguwa of Talakumbura and Medawattagedara Garu of Berawamada ...	Old.
164	„ „	Udagedara Yamasinhayalage Kalinguwa of Tetilla and Dehiwelagedara Durayalage Mahimi of Godunna.	Old.
165	„ „	Tetillegedara Wijayatunga Deweyalage Ratta of Tetille and Udagedara Yamasinhe Dewayalage Ukku.	Old.
166	„ 30	Udagedara Yamasinha Dewayalage Huda of Tetilla and Bogodapalate Gengulle Ketawalagedara Hudi.	Old.
167	„ „	Kiriyagolegedara Rajapaksa Deweyalage Menika of Hapatgamuwa and Walapane Udapalate Ambaliyadde Endarugollegedara Mahimi.	Old.
168	„ „	Pallewattegedara Walimini Deweyalage Dewaya of Hapatgamuwa and Godunne Bulugahakumburegedara Rajapaksa Deweyalage Mahimi.	Old.
169	„ „	Alutgedara Rajapaksa Deweyalage Ratta of Godunna and Godunne Migahahela Mukulewelagedara Rajapaksa Deweyalage Ungu.	Old.
170	„ „	Kukularawegedara Rajapaksa Deweyalage Huda of Hapatgamuwa and Watteduragedara Walimini Deweyalage Girawi of do.	Old.
171	„ „	Watteduragedara Walimini Deweyalage Garuwa of Hapatgamuwa and Pallewattegedara Meniki	Old.
172	„ „	Etikolaarawegedara Abarana Deweyalage Kalinguwa of Pallekanda and Godunne Rajapaksa Deweyalage Idamewattegedara Mahimi.	Old.
173	„ „	Idangedara Patabendi Abarana Dewayalage Bolanda of Pallekanda and Kitulwatte Ratadodangahawattegedera Karuna Deweyalage Punchi.	Old.
174	„ „	Udagedara Abarana Dewayalage Ukkuwa of Pallekanda and Gongutugollegedara Wirakkutti Dewayalage Meniki of do.	Old.
175	„ „	Udagedara Abarana Dewayalage Aruma of Pallekanda and Tundawela Makulgollegedara Sirimali of Tundawela.	Old.
176	„ „	Kurundugahamadagedara Wanni Dewayalage Puncha of Kumbukwala and Kimbullewe Pahalagedara Rammanda Dewayalage Meniki of Pallekanda.	Old.
177	„ „	Pussegedara Samarakon Mudiyanselage Seatu Gamarala of Kiwuligedara and Dehigahaarawegedara Atapattu Mudiyanselage Punchimenika.	Old.
178	August 15	Digamullegedara Vijayatunga Durayalage Ratta of Godunna and Bopitiye Godamudunegedera Utumpuli Dewayalage Girawi of Bopitiyegama.	Old.

Digitized by Google

Validity of certain Marriages.

No. of Entry in the Marriage Register.	Date of Registration.	Names of Parties.	Marriage, old, under No. 8 of 1861, or new, under No. 13 of 1859.
179	1867, Aug. 15	Helawattegedara Utimpuli Dewayalage Dewaya of Godunna and Kosarawegedara Mutuwa Durayalage Ukku of Udawela.	Old.
180	" "	Wahumpuragedara Tunissa Dewayalage Ratta of Hapatgamuwa and Egodawadiyegedara Karunaratna Dewayalage Mahimi of Udawela.	Old.
181	" "	Helawattegedara Utimpuli Dewayalage Puncha of Godunna and Gamagedara Kumburegedara Karuna Dewayalage Ungu of do.	New.
182	" "	Migaha Ellegedara Rampati Dewayalage Meddama of Godunna and Helegedara Yamasinha Dewayalage Ratti of Tetilla.	Old.
183	" "	Digamullegedara Wijayatunga Dewayalage Huda of Godunna and Gamagedara Kumburegedara Karuna Dewayalage Hudi of do.	Old.
184	" "	Wahunupuragedara Wisnu Dewayalage Aruma of Hapatgamuwa and Migaha Ellegedara Rampati Dewayalage Awissiri of Godunna.	Old.
185	" "	Migaha Helegedera Rampati Dewayalage Menika of Godunna and Gedara Kumburegedara Karuna Dewayalage Dingiri.	New.
186	" 20	Puwakgollegedara Yamasinha Dewayalage Ukkuwa of Talakumbura and Bogodapalate Lunugalle Godamudunegedara Wisna Dewayalage Girawi.	Old.
187	" "	Puwakgollegedara Yamasingha Dewayalage Kalinguwa of Talakumbure and Bogadapalata Gengulle Dorakadakumburegedara Hudi.	New.
188	" "	Palugedara Ratnayaka Mudiyanselage Punchirala of Galauda and Soronnatotapalate Liyadipitiye Kehelwattegedara Ukku Menika.	New.
189	" "	Agalakumburegedara Ratnayaka Mudiyanselage Rammal Hami of Galauda and Wattewelagedara Ratnayaka Mudiyanselage Rammenika of Wattewela.	Old.
190	" "	Medakumburegedara Aiyappadi Mudiyanselage Appuhami of Galauda and Kiruwana Ulpotegedara Punchi Menika of Godunna.	Old.
191	" "	Lunuatugedara Ratnayaka Mudiyanselage Menikrala Aratchila of Bokanoruwa and Gurupillegedara Danapala Mudiyanselage Dingiri Menika of Hapatgamuwa.	Old.
192	" "	Lunuatugedara Ratnayaka Mudiyanselage Ganetirala of Bokanoruwa and Soronnatotapalate Kandegedara Idamegedara Ratnayake Mudiyanselage Hudumenika.	Old.
193	" "	Dandukalagedara Ratnayaka Mudiyanselage Punchirala of Galauda and Ritigaha Ellegedara Muhandiramalage Mutumanika of Bokanoruwa.	Old.
194	" "	Weliarawegedara Karuna Dewayalage Puncha of Talakumbura and Puwakgahaarawegedara Ranatunga Dewayalage Ukku of Watagodagama.	Old.

Digitized by Google

Validity of certain Marriages.

195	1867, Aug. 20	Wakkumburegedara Disanayaka Mudiyansalage Nikapotagedara Kawurala of Wakkumbura and Wakkumburegedara Nawaratna Mudiyansalage Malaka of do.	Old.
196	" "	Weliarawegedara Ratnayaka Mudiyanselage Syatu of Wakkumbura and Medagedara Ratnayaka Mudiyanselage Mutumenika of Bokanoruwa.	Old.
197	" "	Udagedara Yamasinha Dewayalage Kalinguwa of Tetilla and Toragamuwegedara Utumpuli Dewayalage Hudi of Bopitiya.	Old.
198	" "	Elewattegedara Multenperuma Dewayalage Kalinguwa of Wakkumbura and Labugastalawe Medawattegedara Wanni Dewayalage Dingiri of Beramada.	New.
199	" "	Elewattegedara Meltenperuma Dewayalage Binduwa of Wakkumbura and Elewattegedara Multenperuma Dewayalage Hudi.	Old.
200	" "	Elewattegedara Multenperuma Dewayalage Kiriya of Wakkumbura and Ilukegedara Hewa Durayalage Dingiri of Tetilla.	New.
201	" "	Wakkumburegedara Nawaratna Mudiyanselage Appuhami of Wakkumbura and Badulupanguwe Medawala Ilukwattegedara Mankatta Mudiyanselage Malaka of do.	Old.
202	" "	Walapane Udapalate Mipanawe Wewegedara Ratnayaka Mudiyanselage Hami of Wakkumbura and Wakkumburegedara Nawaratna Mudiyanselage Rammenika of Wakkumbura.	Old.
203	" "	Elewattegedara Multenperuma Dewayalage Ratta of Wakkumbura and Bogodapalate Lunugalle Pallewelagedara Durayalage Meniki.	New.
204	" "	Tetillegedara Wijayatunga Dewayalage Balaya of Tetilla and Elukegedara Kaluwa Dewayalage Hudi.	Old.
205	" "	Ilukegedara Kaluwa Durayalage Kiriya of Tetilla and Bogodapalate Lunugalle Iluke Udagedara Ukku.	Old.
206	" "	Ilukegedara Kaluwa Dewayalage Kaluhonda of Tetilla and Bogodapalate Lunugalle Hewanegedara Ganhewayalage Mahimi.	Old.
207	" "	Ilukegedara Kaluwa Dewayalage Tondana of Tettilla and Pussegahamulagedara Wijayatunga Dewayalage Hudi of do.	New.
208	" "	Pallekumburegedara Rajapaksa Dewayalage Ratta of Tetilla and Pallekosgollegedara Rajapaksa Dewayalage Girawi of Beramada.	Old.

28th December, 1867.

39–00

Digitized by Google

No. 1 of 1869.

An Ordinance relating to the supply of Gas for Municipal Towns in this Island.

(*See No. 3 of 1871.*)

Preamble.

WHEREAS the Municipal Councils established under the authority of "The Municipal Councils' Ordinance, 1865,"* are authorized to make provision, with the sanction of the Governor and Executive Council, for the supply of any municipal town with gas: And whereas the Municipal Council of the town of Colombo are under treaty with the Colombo Gas and Water Company, Limited (a joint stock company duly registered in England under "The Companies' Act, 1862"), to supply the town of Colombo with gas, and have applied to the Government for an Ordinance to give the said company, or any other person or company with whom or with which the Council may be able to make satisfactory terms, the necessary powers and facilities to supply the towns with gas, and to construct the necessary works therefor: It is therefore hereby enacted:

Short title.

1 This Ordinance may be cited as "The Gas Ordinance, 1869."

2 Has had its effect.

Interpretation clause.

3 The following words and expressions in this Ordinance shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction:

The word "street" shall include any square, court, alley, highway, lane, thoroughfare, or public passage or place:

The word "magistrate" shall include any police magistrate or bench of magistrates:

The word "company" shall include a person.

Company may be empowered to construct the necessary gasworks.

4 It shall be lawful for the Governor, with the advice of the Executive Council, if it shall appear to their satisfaction that a company is in a position to undertake, with advantage to the public, to supply any municipal town in this island with gas, to empower, by Proclamation to be for that purpose issued and published in the *Government Gazette*, such company to construct the necessary works for supplying any town named in the said Proclamation with gas.

Power to break up streets, &c., under superintendence, and to open drains.

5 The said company so proclaimed, and its agents, servants, and workmen, shall thereupon be entitled to open and break up the soil and pavement of the several streets and bridges in the town or place in which it is declared entitled, by the said Proclamation, to establish gasworks, and to open and break up any sewers, drains, or tunnels within or under such streets and bridges, and lay down and place within the same pipes, conduits, service pipes, and other works, and from time to time repair, alter, or remove the same, and also

* Repealed by No. 7 of 1887.

Digitized by Google

make any sewers that may be necessary for carrying off the washings and waste liquids which may arise in the making of the gas; and for the purposes aforesaid to remove and use all earth and materials in and under such streets and bridges; and in such streets to erect any pillars, lamps, and other works, and do all other acts which the said company shall from time to time deem necessary for supplying gas to the inhabitants of the said town or place and its environs, doing as little damage as may be in the execution of the powers hereby granted, and making compensation for any damage which may be done in the execution of such powers.

6 Provided always that nothing herein shall authorize or empower the said company to lay down or place any pipe or other works into, through, or against any building, or in any land not dedicated to public use, without the consent of the owners and occupiers thereof, except that the said company may at any time enter upon and lay or place any new pipe in the place of an existing pipe in any land wherein any pipe has been already lawfully laid down or placed in pursuance of this Ordinance, and may repair or alter any pipe so laid down. Not to enter on private land without consent.

7 Before the said company proceed to open or break up any street, bridge, sewer, drain, or tunnel they shall give to the municipal council for the town proclaimed as aforesaid, or other persons under whose control or management the same may be, or to their clerk, surveyor, or other officer, notice in writing of their intention to open or break up the same not less than three clear days before beginning such work, except in cases of emergency arising from defects in any of the pipes or other works, and then so soon as is possible after the beginning of the work, or the necessity for the same shall have arisen. Notice to be served on persons having control, &c., before breaking up streets or opening drains.

8 No such street, bridge, sewer, drain, or tunnel shall, except in the cases of emergency aforesaid, be opened or broken up except under the superintendence of the persons having the control or management thereof, or of their officer, and according to such plan as shall be approved of by such persons or their officer, or in case of any difference respecting such plan, then according to such plan as shall be determined by the municipal council of the town or place; and such council may, on the application of the persons having the control or management of any such sewer or drain, or their officer, require the said company to make such temporary or other works as they may think necessary for guarding against any interruption of the drainage during the execution of any works which interfere with any such sewer or drain: Provided always that if the persons having such control or management as aforesaid, and their officer, fail to attend at the time fixed for the opening of any such street, bridge, sewer, drain, or tunnel, after having had such notice of the said company's intention as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the said company

Streets or drains not to be broken up except under superintendence of persons having control of the same.

If persons having the control fail to superintend, company may proceed with the work.

Digitized by Google

Gas.

may perform the work specified in such notice without the superintendence of such persons or their officer.

Streets broken up to be reinstated without delay.

9 When the said company open or break up the road or pavement of any street or bridge, or any sewer or tunnel, they shall, with all convenient speed, complete the work for which the same shall be broken up, and fill in the ground, and reinstate and make good the road or pavement, or the sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby; and shall at all times, whilst any such road or pavement shall be so opened or broken up, cause the same to be fenced and guarded, and shall cause a light sufficient for the warning of passengers to be set up and maintained against or near such road or pavement where the same shall be open or broken up, every night during which the same shall be continued open or broken up; and shall keep the road or pavement which has been so broken up in good repair for three months after replacing and making good the same, and for such further time, if any, not being more than twelve months in the whole, as the soil so broken up shall continue to subside.

Penalty for delaying in reinstating streets.

10 If the said company open or break up any street or bridge, or any sewer, drain, or tunnel, without giving such notice as aforesaid, or in a manner different from that which shall have been approved of or determined as aforesaid, or without making such temporary or other works as aforesaid, when so required, except in the cases in which the said company are hereby authorized to perform such works without any superintendence or notice; or if the said company make any delay in completing any such work, or in filling in the ground or reinstating and making good the road or pavement, or the sewer, drain, or tunnel so opened or broken up, or in carrying away the rubbish occasioned thereby; or if they neglect to cause the place where such road or pavement has been broken up to be fenced, guarded, and lighted, or neglect to keep the road or pavement in repair for the space of three months next after the same shall have been made good, or such further time as aforesaid, they shall forfeit to the persons having the control or management of the street, bridge, sewer, drain, or tunnel in respect of which such default is made a sum not exceeding five pounds for every such offence, and they shall forfeit an additional sum not exceeding five pounds for each day during which any such delay as aforesaid shall continue after they shall have received notice thereof.

In case of delay, other parties may reinstate and recover the expense.

Expense how to be ascertained and recovered.

11 If any such delay or omission as aforesaid take place, the persons having the control or management of the street, bridge, sewer, drain, or tunnel in respect of which such delay or omission shall take place may cause the work so delayed or omitted to be executed, and the expense of executing the same shall be repaid to such persons by the said company; and the amount of such expense shall, in case of any dispute about the same, be ascertained by the municipal council of the town or place, and shall be certified to by the chairman

Digitized by Google

or secretary thereof, and if the company should fail to pay the same within a week after notice thereof, the amount appearing in the certificate shall be recovered by the police court or bench of magistrates as if it were a fine imposed by such court or bench, whether or not such amount shall exceed the sum which the police court has jurisdiction to award by way of fine.

Power to enter buildings for ascertaining quantity of gas consumed.

12 The clerk, engineer, or other officer duly appointed for the purpose by the said company may at all reasonable times enter any building or place lighted with gas supplied by the said company in order to inspect the meters, fittings, and works for regulating the supply of gas, and for the purpose of ascertaining the quantity of gas consumed or supplied; and if any person hinder such officer as aforesaid from entering and making such inspection as aforesaid at any reasonable time, he shall, for every such offence, forfeit to the said company a sum not exceeding five pounds.

Recovery of rent due for gas.

13 If any person supplied with gas, or any person to whom any meter or fitting shall have been let for hire by the said company, neglect to pay the rent due for the same to the said company, the said company may stop the gas from entering the premises of such person, by cutting off the service pipes, or by such means as the said company shall think fit, and recover the rent due from such person, together with the expenses of cutting off the gas, by action in any court of competent jurisdiction.

Power to take away pipes when supply of gas discontinued.

14 In all cases in which the said company are authorized to cut off and take away the supply of gas from any house or building or premises under the provisions of this Ordinance, the said company, their agents or workmen, after giving twenty-four hours' previous notice to the occupier, may enter into any such house, building, or premises, between the hours of nine in the forenoon and four in the afternoon, and remove and carry away any pipe, meter, fittings, or other works, the property of the said company.

Meters not liable to distress for rent, &c.

15 Any meter or fitting let for hire by the said company shall not be subject to distress for rent or revenue or any rate due upon the premises where the same may be used, nor be taken in execution under any process of a court or any proceeding in insolvency against the person in whose possession the same may be.

Penalty for fraudulently using gas.

16 Every person who shall lay, or cause to be laid, any pipe to communicate with any pipe belonging to the said company, without their consent, or shall fraudulently injure any such meter as aforesaid, or who, in case the gas supplied by the said company is not ascertained by meter, shall use any burner other than such as has been provided or approved of by the said company, or of larger dimensions than he has contracted to pay for, or shall keep the lights burning for a longer time than he has contracted to pay for, or shall otherwise improperly use or burn the gas, or shall supply any other person with any part of the gas supplied to him by the said company, shall forfeit to the said company the sum of

Digitized by Google

five pounds for every such offence, and also the sum of two pounds for every day such pipe shall so remain, or such works or burner shall be so used, or such excess be committed or continued, or such supply furnished; and the said company may take off the gas from the house and premises of the person so offending, notwithstanding any contract which may have been previously entered into.

Penalty for wilfully damaging pipes.

17 Every person who shall wilfully remove, destroy, or damage any pipe, pillar, post, plug, lamp, or other work of the said company for supplying gas, or who shall wilfully extinguish any of the public lamps or lights, or waste or improperly use any of the gas supplied by the said company, shall for each such offence forfeit to the said company any sum not exceeding five pounds in addition to the amount of the damage done.

Satisfaction for accidentally damaging pipes.

18 Every person who shall carelessly or accidentally break, throw down, or damage any pipe, pillar, or lamp belonging to the said company, or under their control, shall pay such sum of money by way of satisfaction to the said company for the damage done, not exceeding five pounds, as any police court or bench of magistrates shall think reasonable.

Penalty for causing water to be corrupted.

19 If the said company shall at any time cause or suffer to be brought or to flow into any stream, reservoir, aqueduct, pond, or place for water, or into any drain communicating therewith, any washing or other substance, produced in making or supplying gas, or shall wilfully do any act connected with the making or supplying of gas whereby the water in any such stream, reservoir, aqueduct, pond, or place for water shall be fouled, the said company shall forfeit for every such offence a sum not exceeding one hundred pounds; and they shall forfeit an additional sum not exceeding fifty pounds for each day during which such washing or other substance shall be brought or shall flow, or the act by which such water shall be fouled shall continue, after the expiration of twenty-four hours from the time when notice of the offence shall have been served on the said company by the person into whose water such washing or other substance shall be brought or shall flow, or whose water shall be fouled thereby; and such penalties shall be paid to such last-mentioned person.

Daily penalty during the continuance of the offence.

Daily penalty during escape of gas after notice.

20 Whenever any gas shall escape from any pipe laid down or set up by or belonging to the said company, they shall immediately after receiving notice thereof in writing prevent such gas from escaping; and in case the said company shall not, within twenty-four hours next after service of such notice, effectually prevent the gas from escaping and wholly remove the cause of complaint, they shall for every such offence forfeit the sum of five pounds for each day during which the gas shall be suffered to escape after the expiration of twenty-four hours from the service of notice.

Penalty if water be fouled by gas.

21 Whenever any water shall be fouled by the gas of the said company they shall forfeit, to the person the water

Digitized by Google

used by whom shall be so fouled, for every such offence a sum not exceeding twenty pounds, and a further sum not exceeding ten pounds for each day during which the offence shall continue after the expiration of twenty-four hours from the service of notice of such offence.

Power to examine gas pipes to ascertain cause of water being fouled.

22 For the purpose of ascertaining whether such water be fouled by the gas of the said company, the person to whom the water supposed to be fouled shall belong may dig up the ground and examine the pipes, conduits, and works of the said company; provided that such person, before proceeding so to dig and examine, shall give twenty-four hours' notice in writing to the said company of the time at which such digging and examination is intended to take place, and shall give the like notice to the persons having the control or management of the road, pavement, or place where such digging is to take place, and they shall be subject to the like obligation of reinstating the said road and pavement, and the same penalties for delay, or any nonfeasance or misfeasance therein, as are hereinbefore provided with respect to roads and pavements broken up by the said company for the purpose of laying their pipes.

Expenses to abide result of examination.

23 If upon any such examination it appear that such water has been fouled by any gas belonging to the said company the expenses of the digging, examination, and repair of the street or place disturbed in any such examination shall be paid by the said company; but if upon such examination it appear that the water has not been fouled by the gas of the said company, the person causing such examination to be made shall pay all such expenses, and shall also make good to the said company any injury which may be occasioned to their works by such examination.

How expenses to be ascertained.

24 The amount of the expenses of every such examination and repair, and of any injury done to the said company, shall, in case of any dispute about the same, together with the costs of ascertaining and recovering the same, be ascertained and recovered in the manner prescribed for the ascertainment and recovery of expenses in section 11 of this Ordinance.

Liability to indictments for nuisance.

25 Nothing in this Ordinance contained shall prevent the said company from being liable to an indictment for nuisance or to any other legal proceedings to which they may be liable in consequence of making or supplying gas.

Copies of the original deed of association, and of all rules, &c., to be kept for inspection at the office of the company in the town or place where the gasworks are established, and in the office of the registrar

26 A copy of the original deed of association of the company formed as aforesaid, and of every other instrument registered under the said Joint Stock Companies' Act, under which such company may be formed as constituting the regulations of the said company, and a copy of every special resolution of a general meeting whereby any change shall have been or at any time shall be made in the regulations of the said company, shall be kept at the office of the said company in the town or place where the gasworks are established, and shall there be open to the inspection of all persons during the usual hours of business of the said office; and a copy of such original deed of association, and of every

Digitized by Google

of joint stock companies, or the keeper of the records of the Supreme Court.

other such instrument, and of every special resolution as aforesaid, shall also be deposited by the said company as soon as it can be done after the passing of this Ordinance, or after the making of any such special resolution hereafter to be made, in the office of the Registrar of Joint Stock Companies, or, if there be no such officer, in the office of the Registrar of the Supreme Court, and shall there be filed; and an examined copy of any such filed copy as aforesaid, certified by and under the hand of the Registrar of Joint Stock Companies, or of the keeper of the records of the said Supreme Court, shall be good and sufficient evidence of each such original deed, instrument, or special resolution in all actions, suits, and proceedings whatsoever, whether civil or criminal, to be had in any court of justice, or before any magistrate or revenue or other officer, and whether acting judicially or in any proceeding preliminary to a judicial inquiry throughout this island.

Service of process.

27 All services of process, and all notices whatsoever, which by law or by the practice of any court wherein the said company shall sue or be sued are required to be made, served, or given for any purpose whatsoever to the said company, shall and may be made, served, and given, in addition to all ways and means by which the same may otherwise be legally made, served, and given, by leaving the same, addressed to the managing agent of the said company, at the office of the said company.

6th January, 1869.

No. 3 of 1871.

An Ordinance for regulating Measures used in sales of Gas.

Preamble.

WHEREAS the Ordinance No. 1 of 1869 makes due provision for giving all necessary powers and facilities to any company which may be empowered by Proclamation to supply any municipal town with gas; and whereas it is expedient that the measurement used in sales of gas for lighting, heating, and other purposes in such towns should be regulated by one uniform standard: It is therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Short title.

1 This Ordinance may be cited as "The Gas Meter Ordinance, 1871."

Commencement of Ordinance.

2 This Ordinance shall come into operation on the date of the passing thereof.

Interpretation clause.

3 In construing this Ordinance the following terms shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to or inconsistent with such construction:

The word "meter" shall mean gas meter, and shall include every kind of machine used for measuring gas.

The word "company" shall include a person.

The words "police court" shall include the court of the bench of magistrates.

Standard measure.

4 From and after the date on which this Ordinance shall come into operation the only legal standard or unit of measure for the sale of gas by meter shall be the cubic foot containing 63·321 pounds,

Digitized by Google

avoirdupois weight, of distilled or rain water, weighed in air at the temperature of sixty-two degrees of Fahrenheit's thermometer, the barometer being at thirty inches.

5 And for the purpose of enabling every person to ascertain with certainty whether any meter in use, or intended for use, conforms to the standard hereby established, the chairman of the municipal council of any municipal town which is supplied with gas shall preserve with care at his office models of gas-holders, measuring the said cubic foot and such multiples and decimal parts thereof, as the Governor, with the advice and consent of the Executive Council, may from time to time proclaim as expedient, together with proper balances, indices, and apparatus for testing the measurement and registration of meters; and every person shall be at liberty, on giving reasonable notice, to inspect the said models, or any of them, and to compare any other meter therewith. Models to be kept by municipal councils for inspection.

6 In all contracts, bargains, sales, and dealings which shall be made or had in respect of the supply of gas, no meter shall be used within any town which shall not have been stamped by the municipal council thereof, in token of the same having been tested and verified by them in accordance with the standard hereby established. Provided that a meter, duly stamped as aforesaid, shall not be liable to be re-stamped, although the same be used in any other town than that at which the same was originally stamped, but shall be considered as a legal meter unless found to be incorrect within the meaning of this Ordinance. Meters to be stamped. Proviso.

7 No meter shall be stamped by any municipal council testing the same, which shall be found to register, or be capable of being made, by any contrivance for that purpose, or by increase or by decrease of the water in such meter, or by any other means practically prevented in good meters, to register quantities varying from the true standard measure of gas more than two per centum in favour of the seller, or three per centum in favour of the consumer; and every meter which shall be found by such municipal council to register, or be so capable of being made to register, quantities varying beyond the limits aforesaid, shall be deemed incorrect within the meaning of this Ordinance; and every meter which shall be found to measure and register quantities accurately, or not varying beyond the limits aforesaid, and shall be found incapable by any such means as aforesaid of being made to register quantities varying beyond the limits aforesaid, shall be considered to be correct, and be stamped in such manner and on such part of the meter as such municipal council may deem best to prevent fraud. Meters to be tested before being stamped.

8 The following rules shall be observed by any municipal council who are hereby required to undertake the testing of meters: Rules for testing.

Firstly, the meter shall be tested for soundness or leakage only, and not for percentage of error, when fixed on a horizontal base, and with gas under a pressure equal to a column of water three inches high, with a light or lights consuming not more than one-twentieth part of its measuring capacity per hour marked thereon, nor less than one-half of a cubic foot per hour, for all meters of a measuring capacity not exceeding one hundred cubic feet per hour, and not more than one-fortieth part of its said measuring capacity per hour for all meters of any greater measuring capacity per hour than one hundred cubic feet; and all meters found to work under such test shall be deemed sound meters, and any meter found not to work under such test shall not be stamped.

The meter to be tested for percentage of error shall be fixed on a horizontal base, and shall be tested at a pressure equal to a column of water five-tenths of an inch high, and passing the quantity of gas or atmospheric air per hour which shall be marked thereon as its measuring capacity per hour; and the water

Digitized by Google

used in such testing, and the air of the room in which such testing shall be made, shall be, as nearly as practicable, of the same temperature as the gas or air passed through the meter.

Municipal councils to appoint inspectors of meters.

9 It shall be lawful for the municipal council of any municipal town which is supplied with gas to appoint such person or persons as they may deem qualified thereto for the purpose of examining, testing, and stamping meters ; and in case any such person or persons shall stamp any meter without duly testing and finding the same to be correct, or shall refuse, or for three days after being so required neglect, without lawful excuse, to test any meter, or to stamp any meter found to be correct on being so tested, shall be guilty of an offence, and shall be liable to a penalty not exceeding five pounds.

Municipal councils may enter houses, &c., for inspecting meters.

10 It shall be lawful for the municipal council of any municipal town that is supplied with gas, or any person or persons appointed by them for that purpose, at all reasonable times and with all necessary workmen and appliances and other means, to enter any house or shop, store, warehouse, still, yard, or place whatsoever within their jurisdiction, wherein such municipal council may have reason to believe that there is any incorrect meter fixed or used, and to examine and test the same, and if necessary for such purpose to remove such meter, doing as little damage thereby as may be ; and if upon such examination and testing it shall appear that any such meter is incorrect within the meaning of this Ordinance, or fraudulent, the same shall not be re-fixed or used again unless and until altered and repaired so as to measure and register correctly; and the fees on such removal, examination, and testing of a meter, whether corrected and replaced or not, shall be double the fees hereinafter made payable for testing and stamping, and shall be payable by the buyer or seller of gas, as the municipal council shall determine. Provided that any person duly authorized by any company or person selling gas by meter may supply water to any meter, so as to keep the water at the correct level.

Proviso.

Consumers may use any stamped meters.

11 Every consumer of gas may purchase and use for the measurement of the gas supplied to him any meter duly stamped under the authority of this Ordinance, provided that the gas to be consumed per hour shall not exceed the quantity per hour the meter is intended to measure, so marked on the outside thereof as aforesaid.

Fees for testing and stamping meters.

12 The fees for examination, comparison, and testing, with or without stamping meters, shall be sixpence for each meter delivering a cubic foot of gas in four or more revolutions or complete repetitions of the action of the meter, and one shilling for each meter delivering a cubic foot of gas by any less number of revolutions or complete actions, or one revolution or complete action ; and for each meter delivering more than one cubic foot of gas by one revolution or complete action the further sum of one shilling for every cubic foot of gas delivered at one revolution or complete action beyond the first cubic foot.

Cost of models and other expenses to be paid out of the lighting rates.

13 The expense of providing models of gas-holders, with proper balances, indices, and apparatus as aforesaid, and stamps for stamping meters, and the remuneration to such person or persons as may be appointed by the municipal council of any municipal town to test and stamp meters, shall be paid out of the lighting rate leviable under the 54th section of the Municipal Councils' Ordinance, No. 17 of 1865.*

Offences under this Ordinance.

14 Whosoever shall commit any of the following offences shall be liable to the fines hereinafter set forth :

Counterfeiting stamps.

(1) Whosoever shall make, except under the authority of this Ordinance, or forge, or counterfeit, or cause or procure to be made, except as aforesaid, or forged or counterfeited, or knowingly act or assist in the making, except as aforesaid, or forging or counterfeiting any stamp or mark which may be

* Repealed by No. 7 of 1887.

Digitized by Google

used for the stamping or making of any meter under this Ordinance, shall be liable to a fine not exceeding one hundred pounds and not less than ten pounds.

(2) Whosoever shall knowingly sell, alter, or dispose of, let, lend, or expose for sale any meter with such forged stamp or mark thereon, shall be liable to a fine not exceeding ten pounds and not less than two pounds. Provided that all meters with such forged or counterfeited stamps shall be forfeited and destroyed. *Selling or uttering meters with forged stamps.*

(3) Whosoever shall knowingly repair or alter, or cause to be repaired and altered, or tamper with or do any other act in relation to any stamped meter, so as to cause such meter to register unjustly or fraudulently, or who shall prevent or refuse to allow lawful access to any meter in his possession or control, or the supply of water thereto as hereinbefore provided, or shall obstruct or hinder any examination or testing authorized by this Ordinance of any such meter, shall be liable to a fine not exceeding fifteen pounds. Provided that the payment of any such penalty as aforesaid shall not exempt the party offending from liability to indictment or other proceeding at law to which he would otherwise be liable, or deprive any person of the right to recover damages for any loss or injury sustained by such act or default; and provided further that the party offending shall pay the fees for removing and testing and the expense of purchasing and fixing a new meter. *Tampering with meters, obstructing inspectors, &c.* *Proviso.*

15 All disputes between the buyer and seller of gas by meter, or between any owner of a meter and any person or persons appointed under this Ordinance to test meters, respecting the correctness of any meter, shall be referred to the said municipal council, whose decision thereon shall be final. *Settlement of disputes affecting meters.*

16 And in all cases where fees or expenses are by this Ordinance directed to be paid, the amount, if certified to by the chairman or secretary of the said municipal council, shall be recovered, in the event of the party liable thereto failing to make payment within a week after notice given to him in that behalf, by the police court, as if it were a fine imposed by such court, whether or not such amount shall exceed the sum which the police court has jurisdiction to award by way of fine. *Fees and expenses under this Ordinance how recoverable.*

17 No prosecution shall be instituted against any person for any offence committed against the provisions of this Ordinance cognizable by the police court, unless the same shall be commenced within three months from the time of the commission of such offence. *Limitation of prosecution.*

11th January, 1871.

No. 7 of 1869.

An Ordinance to provide an uniform mode of Oaths.

WHEREAS it is expedient to provide an uniform mode of oaths to be taken by holders of office: It is hereby enacted as follows: *Preamble.*

1 Has had its effect.

2 The forms of oaths to be henceforward taken in this island by holders of office shall be as follows, any custom, law, or Ordinance to the contrary notwithstanding: *Forms of oath.*

Oath of Allegiance.

I, ———, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, her heirs and successors, according to law. So help me God.

Digitized by Google

Official Oath.

I, ———, do swear that I will well and truly serve Her Majesty Queen Victoria in the office of ———. So help me God.

Judical Oath.

I, ———, do swear that I will well and truly serve Her Majesty Queen Victoria in the office of ———, and I will do all right to all manner of people after the laws and usages of this Colony, without fear or favour, affection or ill-will. So help me God.

Oath to be taken by executive and judicial officers.

3 All heads of departments other than judicial, and officers other than judicial, who are required to take oaths before assuming office, shall take the oath of allegiance and official oath. All judicial officers shall take the oath of allegiance and judicial oath.

Penalty for not taking required oaths.

4 If any officer required to take the oaths above directed declines or neglects to do so, he shall, if he has already entered on his office, vacate the same, and, if he has not entered on the same, be disqualified from doing so ; but no person shall be compelled, in respect of the same appointment to the same office, to take such oaths more than once.

Provision in favour of persons permitted to make affirmations.

5 When an oath is required to be taken under this Ordinance, every person permitted by law to make an affirmation or declaration instead of taking an oath may, instead of taking such oath, make a solemn affirmation in the form of the oath hereby appointed, substituting the words "solemnly, sincerely, and truly declare and affirm" for the word "swear," and omitting "So help me God."

The name of the Sovereign for the time being to be used in oaths.

6 When in any oath the name of her present Majesty is expressed, the name of the Sovereign for the time being shall be substituted from time to time.

Who may administer oaths.

7 The oath of allegiance, official oath, and judicial oath may be administered by any person empowered by law to administer an oath.

13th October, 1869.

No. 15 of 1869.

An Ordinance to declare the consent of the Legislature of this Colony to the erection of a Lighthouse on the Great Basses Rocks, and to the collection of Dues in respect thereof.

Preamble. 18 & 19 Vict. c. 91.

WHEREAS by "The Merchant Shipping Act Amendment Act, 1855," it is enacted, that in any case in which any lighthouse has been or is hereafter erected on or near the coasts of any British possession, by or with the consent of the legislative authority of such possession, Her Majesty may, by Order in Council, fix such dues in respect

thereof, to be paid by the owner or master of every ship which passes the same or derives benefit therefrom, as Her Majesty may deem reasonable, and may in like manner from time to time increase, diminish, or repeal such dues, and from the time specified in such order for the commencement of the dues thereby fixed, increased, or diminished, the same shall be leviable throughout Her Majesty's dominions in manner in the said Act mentioned; and that no such dues shall be levied in any colony unless and until the legislative authority in such colony has, either by address to the Crown or by an Act or Ordinance duly passed, signified its opinion that the same ought to be levied in such colony: And whereas a lighthouse is about to be erected on the Great Basses Rocks near the south-east coast of this colony, and it is expedient that the Legislature thereof should declare, by Ordinance, its consent to the erection of such lighthouse, and its opinion that such dues as Her Majesty may, by Order in Council, fix in respect thereof, pursuant to the said Act, ought to be levied in this colony: It is therefore declared and enacted:

That the lighthouse about to be erected on the Great Basses Rocks, near the south-east coast of this island, is erected with the consent of the said Governor and Council, and that any dues which may hereafter be fixed by Her Majesty, by Order in Council, in respect of the said lighthouse, ought to be and may be levied in this colony, in manner provided by the said Act, on all ships arriving or touching at any port or place therein, after or before passing the said lighthouse or deriving benefit therefrom.

Consent of Ceylon Legislature to erection of lighthouse on the Great Basses Rocks; and to the collection in this colony of dues on ships touching at any port thereof, which may be fixed by Order in Council.

15th December, 1869.

No. 17 of 1869.

An Ordinance for the General Regulation of Customs in the Island of Ceylon.

(*As amended by No. 1 of 1871, No. 3 of 1883, No. 4 of 1886, and No. 20 of 1898.*)

(*See No. 1 of 1871, No. 1 of 1875, No. 12 of 1884, No. 11 of 1891, No. 17 of 1892, No. 20 of 1892, No. 4 of 1894, No. 18 of 1896, No. 22 of 1896, No. 7 of 1898, and No. 20 of 1898.*)

WHEREAS it is expedient to regulate the management and collection of the customs and customs duties in the island of Ceylon, and to consolidate into one Ordinance the laws at present relating thereto: It is hereby enacted as follows:

Preamble.

Section I.

1 From and after the commencement of this Ordinance, the several Ordinances and parts of Ordinances set forth in schedule A hereto annexed are hereby repealed, except in so far as respects any duties or arrears of duties which shall

Ordinances and parts of Ordinances set forth in schedule repealed;

Digitized by Google

except as to penalties incurred or offences committed.

have become due or payable, or any offences already committed, or any fines, penalties, dues, forfeitures, or liabilities already incurred; and except as relates to bonds taken, licenses granted, and acts done under the authority or in pursuance of any such Ordinances, which said bonds, licenses, and acts shall be valid and effectual to all intents and purposes as if this Ordinance had not been passed.

II.—*Interpretation of Terms used in this Ordinance.*

Interpretation of terms.

2 Whenever the several terms or expressions following shall occur in this Ordinance, or in any other Ordinance relating to the customs, the same shall be construed respectively in the manner hereinafter directed, unless there is anything in the context repugnant to such construction; that is to say—

"British possession" shall include colony, plantation, island, territory, or settlement belonging to Her Majesty:

"Coastwise" shall mean the trade by sea from any one part of the island of Ceylon to any other part thereof:

"Collector" shall mean the Principal Collector, collector, deputy, assistant, sub-collector, or other principal acting officer of customs of any port or place:

"Foreign" shall mean the trade by sea to or from any part or place beyond the limits of the island of Ceylon:

"Mail steamers" shall mean steamers running under contract with the Imperial, Indian, or any colonial or foreign government:

"Her Majesty" shall mean Her Majesty, her heirs, and successors:

"Master" of any ship shall mean the person having or taking the charge or command of such ship:

"Officer of customs" shall mean any person acting as such for the time being:

"Owner" shall alike mean one owner if there be only one, and any or all the owners if there be more than one.

"Queen's warehouse" shall mean any place provided by the Government of this colony for lodging goods therein for the security of the customs:

"Seamen" shall include mate, mariner, sailor, or landsman, being one of the crew of the ship:

"Ship" shall mean ship or vessel of every description:

"Warehouse" shall mean any place provided for the deposit of goods on the landing or for the shipment thereof for the security of the customs:

"Bonded warehouse" shall mean any place approved of by the Governor in which goods entered to be warehoused may be lodged, kept, and secured without payment of duty, although prohibited to be used in the colony.

Digitized by Google

III.—*Management.*

3 The Governor, or, under his authority, the Principal Collector, shall appoint proper persons for the management and collection of the customs, and the performance of all duties connected therewith, on such salaries and allowances as may be determined, and may require of every person now employed or who shall hereafter be employed in the service of the customs, such securities for his good conduct as he shall deem necessary, and the Principal Collector of Customs shall, throughout Ceylon, have the general superintendence of all matters relating to the customs.

Appointment of officers.

Salaries and securities.

Principal Collector.

4 Every person employed on any duty or service relating to the customs within this island, by the orders or with the concurrence of the Governor or the collector, whether previously or subsequently expressed, shall be deemed to be the officer for that duty or service, and every act, matter, or thing required by any law at any time in force to be done or performed by, to, or with any particular officer nominated in such law for such purpose, being done or performed by, to, or with any person appointed by the Governor or the collector to act for or in the behalf of such particular officer, shall be deemed to be done or performed by, to, or with such particular officer; and every act, matter, or thing required by any law at any time in force to be done or performed at any particular place within any port, being done or performed at any place within such port appointed by the Governor for such purpose, shall be deemed to be done or performed at the particular place so required.

Persons employed by customs deemed officers for such service.

5 If any officer or other person acting in any office or employment in or belonging to the customs shall take or receive any fee, perquisite, gratuity, or reward, whether pecuniary or of any other sort or description whatsoever, directly or indirectly from any person (not being a person duly appointed to some office in the customs) on account of anything done, to be done, or omitted to be done by him in any way relating to his said office or employment, except such as he shall receive under any order or permission of the Governor or collector, such officer or other person so offending shall, on proof thereof, be dismissed from his office, and he shall be deemed guilty of an offence, and shall be liable on conviction to a fine not exceeding twenty pounds; and if any person, not being a person duly appointed to some office in the customs, shall give, offer, or promise to give any such fee, perquisite, gratuity, or reward, such person shall for every such offence forfeit a sum not exceeding one hundred pounds.

Officer taking any fee or reward not allowed shall be dismissed.

Penalty for offering fee.

6 No officer of customs, nor person employed in the collection or management of or accounting for the revenue of customs, or any part thereof, nor any other person acting under him, shall, during the time of his acting as such officer, or of his being so employed as aforesaid, be compelled to serve in any other public office or employment or to serve on any jury or inquest, any law, usage, or custom to the contrary notwithstanding.

Officers of customs not liable to serve in other local offices.

Digitized by Google

Hours of attendance.

7 It shall be lawful for the Principal Collector, with the sanction of the Governor, from time to time to appoint the hours of general attendance of the respective officers and other persons under his survey at their proper offices and places of employment.

8 Repealed by No. 4 of 1886.

Collector authorized to administer oaths.

9 In all cases wherein proof on oath shall be required by any law, or shall be necessary in any matter relating to the customs, the same may be made before the collector or other principal officer of customs, or before the persons acting for them respectively, who are hereby authorized and empowered to administer the same.

Collector, &c., may examine witnesses on oath.

False oath deemed perjury.

10 Upon examination and inquiries made by the collector or other principal officer of the customs, or other persons appointed by the Governor to make such examinations and inquiries, for ascertaining the truth of statements made relative to the customs, or the conduct of officers or persons employed therein, any person examined before him or them as a witness shall deliver his testimony on oath, to be administered by such collector or other principal officer, or such other persons as shall examine any such witness, who are hereby authorized to administer such oath; and if such person shall be convicted of giving false evidence on his examination on oath before such collector or other principal officer of customs, or such other person in conformity to the directions of this Ordinance, every such person so convicted as aforesaid shall be deemed guilty of perjury, and shall be liable to the pains and penalties to which persons are liable for wilful and corrupt perjury.

IV.—*Levying of Customs Duties.*

Duties to be levied.

11 From and after the commencement of this Ordinance, the several duties of customs, as the same are respectively inserted, described, and set forth in figures in the table of duties (schedule B) hereto annexed, shall be levied and paid upon all goods, wares, and merchandise imported into this island: Provided that it shall be lawful for the Governor, with the advice of the Executive Council, from time to time to alter and amend the official rated valuation on which the duty is assessed on cotton piece goods and yarns by Proclamation in the *Government Gazette*, not less than three months before such alteration shall come into force; such Proclamation shall have the same effect in law as if it formed part of this Ordinance.

Goods in warehouse to be liable to the duties imposed by this Ordinance.

12 All goods whatsoever which shall have been warehoused without payment of duty upon the first importation thereof, and which shall be in the warehouse when this Ordinance comes into force, shall become liable to the duties imposed by this Ordinance, in lieu of all former duties.

Power to charge rent.

13 On all goods lodged in any Queen's warehouse, warehouse, or place of deposit provided by Government, it shall be lawful for the collector to charge, demand, and receive warehouse rent for all such time as the same shall

Digitized by Google

remain in such warehouse, at such rates and under such regulations as may from time to time be fixed by the Governor, as warehouse rent payable on goods so lodged, and no goods upon which warehouse rent may be due shall be removed until the same be paid.

Definition of time of an importation;

14 If upon the first levying or repealing of any duty, or upon the first permitting or prohibiting of any importation or exportation, whether inwards, outwards, or coastwise in this colony, it shall become necessary to determine the precise time at which an importation or exportation of any goods made and completed shall be deemed to have had effect, such time, in respect of importation, shall be deemed to be the time at which the ship importing such goods had actually come within the limits of the port at which such ship shall in due course be reported and such goods be discharged; and such time, in respect of exportation, shall be deemed to be the time at which the goods had been shipped on board the ship in which they had been exported; and if such question shall arise upon the arrival or departure of any ship, in respect of any charge or allowance upon such ship, exclusive of any cargo, the time of such arrival shall be deemed to be the time at which the report of such ship shall have been or ought to have been made; and the time of such departure shall be deemed to be the time of the last clearance of such ship with the collector for the voyage upon which she had departed.

and of an exportation; and of an arrival; and of a departure.

Duties to be paid in island currency according to standard weights and measures.

15 All duties of customs, as well as all penalties and forfeitures incurred under this Ordinance, shall be paid and received in the several descriptions of money herein enumerated, and at the rates of exchange specified, viz., in British gold or silver money, or in such other description of money and at such rate of exchange as may from time to time be established by the Governor, and according to the standard weights and measures of this island; and that in all cases, when such duties are imposed and allowed according to any specific quantity or any specific value, the same shall be deemed to apply in the same proportion to any greater or less quantity or value; and the produce of all duties of customs shall be paid by the collector into the hands of the Treasurer or the sub-accountants of the colony, in such manner and at such periods as may be directed by the Governor.

Produce of customs duties to be paid into the Treasury, &c.

Return of duty overpaid.

16 No duty or other customs dues or charges which shall have been charged and paid, and of which, or of a portion of which, repayment is claimed in consequence of the same having been charged or paid under an erroneous construction of law or from other error, shall be returned,* unless such claim is made within twelve months from the date of such payment, and the collector shall, within the period above specified, repay the duties, dues, or charges so overpaid or

* Not to apply to articles imported for Her Majesty's forces.—See No. 20 of 1892.

39—00 Digitized by Google

Duty short levied to be made good on demand.

paid in error out of moneys received as duties; and when any duties or other customs dues or charges have been short levied through inadvertence, error, or misconstruction on the part of the officers of customs, the person chargeable therewith shall pay the deficiency, provided that the same shall be demanded within twelve months from the date of such short levy; and it shall be lawful for the officers of customs to refuse to pass any goods belonging to such person until the said deficiency be paid.

V.—*Port Dues.*

Port dues.

17 Port dues shall be leviable and payable for entry inwards, and for clearance outwards, on all ships arriving at or departing from any port of this island, according to the table of port dues set forth in figures in schedule D hereto attached: Provided always that when a vessel has paid port dues inwards or outwards, she shall not be liable for additional port dues for goods carried coastwise during the same voyage.

Composition for dues.

18 Any coastwise ship shall be allowed to compound for port dues for twelve months at the rate of one shilling per ton of the registered tonnage, and on payment thereof the collector or other principal officer shall grant a certificate which shall exempt such vessel while so employed from any further demand for port dues during the period stated in such certificate.

Tonnage of ship how ascertained.

19 The tonnage or burthen of every British ship, within the meaning of this Ordinance, shall be the tonnage set forth in the certificate of registry of such ship, and the tonnage or burthen of every other ship shall for the purposes of this Ordinance be ascertained in the same manner as the tonnage of British ships is ascertained.

VI.—*Regulations Inwards.*

No goods to be landed nor bulk broken before report.

Times and places of landing, and care of officers.

Goods not reported or entered, forfeited.

Penalty.

20 And whereas it is expedient that the officers of customs should have full cognizance of all ships coming into any port or place in this island, or approaching the coast thereof, and of all goods on board or which may have been on board such ships, and also of all goods unladen from any ships in any port or place in this island: It is enacted that no goods shall be unladen from any ship arriving from parts beyond the seas at any port or place in this island, nor shall bulk be broken after the arrival of such ship within one league of the coast thereof, before due report of such ship and sufferance granted, in manner hereinafter directed; and that no goods shall be so unladen except at such times and places and in such manner and by such persons and under the care of such officers as hereinafter directed; and that all goods not duly reported, or which shall be unladen contrary hereto, shall be forfeited; and if bulk be broken contrary hereto the master of such ship shall forfeit a sum not exceeding one hundred pounds; and if after the arrival of any ship within one league of the coasts of this island any alteration be made in the stowage of the cargo of such ships

Digitized by Google

so as to facilitate the unlading of any part of such cargo, or if any part be staved, destroyed, or thrown overboard, or any package be opened, such ship shall be deemed to have broken bulk: Provided always that coin, bullion, cattle, and other live stock, and passengers with their baggage, may be landed previous to report, entry, or sufferance.

Except coin, bullion, cattle, passengers.

21 The master of every ship arriving at any port or place in this island, whether laden or in ballast, shall come within twenty-four hours after such arrival, and before bulk be broken, to the custom house, and there make a report in writing, and such report shall be in duplicate, and shall make and subscribe a declaration to the truth of the same before the collector or other officer of customs of the arrival and voyage of such ship, stating the name, country, and tonnage, and if British, the port of registry, the name and country of master, the country of the owners, the number of the crew, and how many are of the country of such ship, the number of passengers, if any, and whether such ship be laden or in ballast, and if laden, the marks, numbers, and contents of every package or parcel of goods on board, and the particulars of such goods as are stowed loose, and where any such goods were laden, and where and to whom consigned, and where and what goods, if any, had been unladen during the voyage, and what part of the cargo, if any, is intended for exportation in such ship to parts beyond the seas, and what stores or stock remain on board such ship, as far as any of such particulars can be known to him; and further, the master shall answer all such questions concerning the ship and the cargo, and the crew and the voyage, as shall be demanded of him by such officer; and if any goods shall be unladen from any ship before such report be made, or if the master shall fail to make such report, or if after such report any package shall have been opened, or if he shall make an untrue report, or shall not truly answer the questions demanded of him, he shall be liable to a penalty not exceeding one hundred pounds.

Ship and cargo to be reported within 24 hours of arrival of ship.

Particulars of report.

22 The master of every ship shall, at the time of making such report, deliver to the collector the manifest of the cargo of such ship, when a manifest is required, and, if required by the collector, shall produce to him any bill or bills of lading, or a true copy thereof, for any and every part of the cargo laden on board; and in case of failure or refusal to produce such manifest or to produce such bill of lading or copy, or if such manifest or bill of lading or copy shall be false, or if any bill of lading be uttered or produced by any master, and the goods expressed therein shall not have been *boná fide* shipped on board such ship, or if any bill of lading uttered or produced by any master shall not have been signed by him or other duly authorized person, or any such copy shall not have been received or made by him previously to his leaving the place where the goods expressed in such bill of lading or copy were shipped, then and in every such case such master shall be liable to forfeit a sum not exceeding one hundred pounds.

Master to deliver manifest.

And if required bill of lading, or copy.

Penalty on failure.

Digitized by Google

Officers to board ships.
To have free access to all parts.
May seal or secure goods and open locks.

23 Officers of the customs may board any ship arriving at any port in this island, and freely stay on board until all the goods laden therein shall have been duly delivered from the same, and such officers shall have free access to every part of the ship, with power to fasten down hatchways, and to mark any goods before landing, and to lock up, seal, mark, or otherwise secure any goods on board such ship; and if any place or any box or chest be locked and the keys be withheld, such officers, if they be of a degree superior to tidewaiters or boatmen, may open any such place, box, or chest in the best manner in their power, and if they be tide-waiters or boatmen, or only of that degree, they shall send for their superior officer, who may open or cause to be opened any such place, box, or chest in the best manner in his power; and if any goods be found concealed on board any such ship they shall be forfeited; and if the officers shall place any lock, mark, or seal upon any goods on board, and such lock, mark, or seal be wilfully opened, altered, or broken before the delivery of such goods, or if any of such goods be secretly conveyed away, or if the hatchways after being fastened down by the officer be opened, the master of such ship shall be liable to forfeit a sum not exceeding one hundred pounds.

Goods concealed, forfeited.
If seal, &c., broken, master to forfeit £100.

Officers may be stationed in ships within the limits of any port.

24 Officers of the customs may be stationed on board any ship while within the limits of any port or place in this island, and the master of every ship on board of which any officer is so stationed shall provide every such officer with suitable shelter and accommodation while on board, and in case of neglect or refusal so to do shall be liable to forfeit a sum not exceeding twenty pounds.

Penalty on master not having clearance and if cargo do not correspond with ship's papers, or if goods sent out of vessel be not landed at the prescribed places.

25 If any ship shall arrive at any port in this island without a clearance or other paper which it is usual to grant at the place or places from which such ship shall have come, the master shall be liable to a penalty not exceeding fifty pounds, or if any goods entered on any clearance, or other paper granted at the place from which any ship shall have come, shall not be found on board such ship, or if the quantity found be short, and the deficiency be not duly accounted for, or if goods sent out of the ship be not landed at the appointed places, the master shall be liable to a penalty not exceeding twenty pounds for every missing or deficient package of unknown value, and twice the amount of duty chargeable on the goods deficient and unaccounted for, if the duty can be ascertained, and the collector is authorized to require the payment of such fine and dues, and to decline the granting of a clearance outwards to the master of any vessel so liable, and refusing to pay such fines and dues: Provided always that nothing herein contained shall be construed to prevent the collector from accepting explanation in the absence of clearance, or from permitting at his discretion the master of any ship to amend obvious errors, or to supply omissions from accidents or inadvertence, by furnishing an amended report.

Proviso.

Digitized by Google

26 No goods shall be unshipped or carried from the importing ship to any wharf or other place, except under such rules, regulations, and restrictions as the collector may from time to time direct and appoint; and all goods unshipped or carried contrary to such rules, regulations, and restrictions, or any of them, shall be forfeited, together with the boat or other means used for the conveyance of such goods; and every person knowingly concerned in the unshipping or carrying of such goods, or into whose hands and possession such goods shall knowingly come, contrary to such rules, regulations, and restrictions, shall forfeit and pay a sum not exceeding one hundred pounds, or treble the value of such goods, at the election of the said collector.

Goods unshipped from the importing vessel, or landed contrary to the regulations of the collector, forfeited.

Penalty on persons concerned.

27 No goods shall be unladen from any ship until a sufferance shall have been granted by the collector for the landing of the same, and no goods shall be landed except at the place appointed and expressed in such sufferance, and all goods so landed shall be taken and deposited in the Queen's warehouse, and within three clear days, exclusive of Sundays and holidays, from the date of landing, the importer shall make a full and complete entry thereof as hereinafter provided, and shall either pay down all duties which shall be due and payable on such goods, or shall duly warehouse the said goods, or, if the goods be free of duty, shall so enter the same; and in default of such entry being made, and the said goods being removed within three clear days as aforesaid after the same shall have been landed, such goods shall be liable to double rent for such time as they may remain in the warehouse thereafter; and all goods unladen, landed, or removed without such sufferance, or contrary to the directions in such sufferance, shall be forfeited.

Collector to grant general sufferance for the landing of goods.

Goods landed to be taken to the Queen's warehouse.

Subsequent entry.

Goods not removed or warehoused within three clear days from the date of landing subject to double rent.

Goods landed contrary to or without sufferance, forfeited.

28 The master of any ship from which goods or cargo shall be unladen before the hours of six in the morning or later than four o'clock in the afternoon, or on any day when the custom house is closed for business, without permission in writing from the collector, shall be liable to a fine not exceeding fifty pounds, and the boat and other means used for the conveyance of such goods shall be liable to be forfeited.

No goods to be unladen except during the legal hours and days of business.

Forfeiture.

29 Except in special cases sanctioned by the collector of customs, ten days, exclusive of Sundays and holidays, shall be allowed for the discharge of the import cargoes of vessels not exceeding 150 tons burthen, and twenty-five days for vessels exceeding that burthen; and the said period shall be calculated from the date on which the vessel was admitted to entry and sufferance granted; and if any goods remain on board after the periods above fixed the collector may order such goods to be at once landed, and in case of neglect of such directions or of unnecessary delay or other unwarranted cause the collector may authorize the landing of the cargo and its conveyance to the Queen's warehouse; and if the duties, warehouse rent, and charges of landing and freight due upon any goods so landed shall not be paid within one month after

Cargo in ships of 150 tons to be landed within 10 days, and exceeding 150 tons within 25 days after arrival of such ship.

In default collector may land and convey goods to Queen's warehouse.

Duties, &c., to be paid within

Digitized by Google

one month, or goods to be sold.

such landing, the same shall be sold and the produce thereof applied, first to the payment of freight and landing charges, next of duties and warehouse rent, and the overplus, if any, shall be paid to the owner of the goods, if claimed within twelve months from the date of such sale, otherwise such surplus shall be brought to account as revenue: Provided that it shall be lawful for the collector to have any small package or parcel of goods landed and conveyed to the Queen's warehouse out of any ship whatever, although the periods above specified shall not have expired.

Transhipment of goods.

30 No transhipment of any goods shall be made except by the special order of the collector or other proper officer, and after due entry of the goods, nor until an officer of the customs shall be deputed, at the expense of the party desiring this privilege, to superintend the removal of the goods from vessel to vessel; and if any goods are transhipped, or attempted to be removed from one vessel to another without special authority required as aforesaid, such goods, together with the boat and other means used for conveying the same, may be seized, and shall be liable to confiscation; but goods in transit by mail steamers and declared to be so by the master at the time of report may be transhipped without entry or bond, under superintendence of the proper officers and at the expense of the parties concerned.

By mail steamers may take place without entry or bond.

Boat notes to accompany goods unladen from any ship.

31 With all goods unladen from any ship there shall be sent with each boat load a boat note, specifying the number of packages and the marks and numbers or other description thereof, and such boat note shall be furnished and signed by an officer of the ship, and if there be a custom house officer on board the boat notes shall be signed by such officer also; and the tindal and owner of the boat into which the goods have been laden shall be held responsible for the due landing and delivery at the custom house of all the goods so laden and specified in the boat note, and shall be liable to treble the duties due on any deficiency; and if any goods be found in a boat without a boat note, as above provided for, or in excess of the quantity specified in the boat note, or if the boat be found deviating from the proper course to the proper place of landing, the boat containing such goods may be detained by any officer of the customs, and unless the cause of deviation or excess be explained to the satisfaction of the collector, such boat and such goods shall be liable to forfeiture.

Ship's stores.

32 The stores of every ship shall be subject to the same duties and the same prohibitions, restrictions, regulations, fines, and penalties, as goods and merchandise on importation, and may in like manner be entered for payment of proper duties or to be warehoused.

Goods to be landed and examined at the expense of importer.

33 The unshipping, carrying, and landing of all goods, and the bringing of the same to the proper place for examination or for weighing, and the putting of the same into and out of the scales, and the measuring, counting, unpacking, and repacking, and the opening and closing of the same, and

Digitized by Google

removing to and placing them in the proper place of deposit, shall be performed by and at the expense and risk of the importer, consignee, or agent.

34 All goods placed in the Queen's or other warehouses by any person shall be stowed by such person so as to afford easy access thereto, and in such parts or divisions of the warehouse and in such manner as the collector shall direct; and if the stowage be broken the goods shall be re-piled by the person breaking such stowage, in such manner as the collector may require. **Goods in warehouse must be properly stowed and re-piled.**

35 If any person placing such goods or breaking the stowage shall neglect or refuse to stow or re-pile them as hereinbefore directed, he shall for such neglect or refusal be guilty of an offence, and be liable to a fine not exceeding five pounds: Provided that it shall be lawful for the person so offending to avoid prosecution for the offence by tendering double the sum incurred in properly stowing or re-piling the goods; and if such sum be duly tendered before the institution of the prosecution, no further proceedings shall be had against such person for the offence aforesaid. In case of prosecution, the magistrate shall direct so much of the fine as shall be sufficient to cover the expense of properly stowing and re-piling the goods to be paid to the collector. **Penalty for neglect or refusal.** **Proviso.** **Expenses to be paid to collector.**

36 If any goods enumerated in the table of prohibitions and restrictions in schedule C to this Ordinance annexed shall be imported or brought into this island contrary to the prohibitions and restrictions contained in such table in respect thereof, such goods shall be forfeited, and shall be destroyed or disposed of as the Governor may direct: Provided that if any dangerous substance be imported or brought into this island without the license of the Governor, or contrary to any of the regulations which may be made from time to time by the Governor, with the advice of the Executive Council, for the safe landing and deposit of such substance, the person importing or bringing the same to this island, and any person concerned in such importation or bringing of the same, shall, in addition to the forfeiture above provided, be guilty of an offence and be liable to a fine not exceeding one hundred pounds. **Prohibitions and restrictions.**

37 All articles consigned to any officer* of a public department in Ceylon, and being the property of the Crown, are to be passed duty free on the public officer to whom they are consigned delivering to the collector a list of the articles, and certifying at the foot thereof that they are *bonâ fide* public property: Provided always that all such goods, wares, and merchandise, the property of the Crown, shall in case of the sale thereof, after importation, be liable to and be charged with such and the same duties of customs as may by law be payable or charged on the like goods, wares, and merchandise not being the property of the Crown, and the officer of the public department in whose charge such goods may be shall furnish the collector with the particulars of the sale thereof, **Public property free.** **Proviso.**

* See provision as to Her Majesty's forces in Ordinance No. 20 of 1892.

Digitized by Google

and out of the proceeds of the same pay to the said collector the duties which may be due thereon.

Abatement of duty on damaged goods.

38 No claim for any abatement of duty in respect of any goods imported into Ceylon shall be allowed on account of damage, unless such claim shall be made on the first examination thereof, and in such form and manner as the collector shall direct, nor unless it shall be proved to the satisfaction of the collector or other officer of the customs that such damage was sustained after such goods had been shipped in the importing ship and before the landing thereof in Ceylon, and the damage sustained by such goods shall be assessed by the officers of the customs, if competent thereto, but if not, or if the importer be not satisfied as to the amount allowed for such damage, the collector may call upon two impartial merchants to examine the goods, and certify to what extent in their judgment the same are lessened in value by such damage, whereupon the officers of the customs may make an abatement not exceeding three-fourths of the duty originally chargeable thereon; but no allowance shall be made for damage on spirits, sugar, cocoa, tea, coffee, pepper, tobacco, currants, raisins, figs, wine, beer, grain, rice, wheat, gram, peas, paddy and other grain, fish, bacon, butter, cheese, hams, beef, and pork, flour, or other articles of food so damaged as to be unwholesome and unfit for food.

Not to exceed three-fourths of duty, and not to apply to certain goods.

Importer to deliver bill of entry.

39 The person entering any goods inwards, whether for payment of duty or to be warehoused, or for payment of duty upon the taking out of the warehouse, or whether such goods be free of duty, shall deliver to the collector a bill of entry of such goods fairly written in words at length, expressing the name of the ship, and of the master of the ship in which the goods were imported, and of the place from which they were brought, and the description and situation of the warehouse, if they are to be warehoused, and the name of the person in whose name the goods are to be entered, and the quantity, value, and description of the goods, and the number and denomination or description of the respective packages containing the goods, and in the margin of such bill shall delineate the respective marks and numbers of such packages, and shall pay down any duties which may be payable upon the goods mentioned in such entry; and such person shall also deliver at the same time two or more duplicates of such bill, in which bill all sums and numbers may be expressed in figures, and the particulars to be contained in such bill shall be legibly written and arranged in such form and manner, and the number of such duplicates shall be such as the collector shall require, and such bill of entry when signed by the collector, or person authorized by him, and transmitted to the proper officer, shall be the warrant to him for the examination and delivery of such goods; but if such goods shall not agree with the particulars in the bill of entry the same shall be forfeited, and such forfeiture shall include all other goods which shall be entered or packed with them as well as the packages in which they are contained.

Duplicates.

Digitized by Google

40 The importer of any goods, or his agent, if unable, for want of full information, to make perfect entry of such goods, may on making and subscribing a declaration to that effect before the collector, or other proper officer of customs, make an entry by bill of sight for the packages or parcels of such goods, in order that the same may be seen and examined by the proper officer, and within three days after the goods shall have been so examined the importer shall make a perfect entry thereof, either for payment of duty or for warehousing, as the case may be; but if the importer shall neglect to pass such perfect entry within one month after the date of the examination, such goods shall be sold for the payment of the duties, warehouse rent, and other charges due thereon, and the overplus, if any, shall be paid to the proprietor of the goods.

Entry by bill of sight.

Perfect entry to be made within three days.

In default goods to be sold after one month.

41 No entry nor any warrant for the delivery of any goods, or for the taking of any goods out of any warehouse, shall be valid unless the particulars of the goods and packages in such entry shall correspond with the particulars of the goods and packages purporting to be the same in the report of the ship, and in the manifest, where a manifest is required, and in the certificate or document, where any is required, by which the importation or entry of such goods is authorized, nor unless the goods shall have been properly described in such entry by the denominations, and with the characters and circumstances according to which such goods are charged with duty, or may be imported, either to be used in the island, or to be warehoused for exportation only; and any goods taken or delivered out of any ship, or out of any warehouse, or for the delivery of which, or for any order for the delivery of which, from any warehouse, demand shall have been made, not having been duly entered, shall be forfeited.

Entry to agree with manifest, &c.

Goods not duly entered, forfeited.

42 In all cases when the duties imposed upon the importation of articles are charged, not according to the weight, tale, gauge, or measure, but according to the value thereof, the respective value of each of such articles shall be stated in the entry, together with the description and quantity of the same, and such respective value shall be affirmed by the declaration of the importer of such articles, or his known agent, in manner and form following; (that is to say,)

Goods *ad valorem.*

Declaration of value.

I, *A. B.*, (*place of abode*) do hereby declare that I am (the importer, *or* authorized by the importer) of the goods contained in this entry, and that I enter the same (*stating which, if parts only*) at the respective sum or value mentioned opposite to the said articles, and amounting together to the sum of £ ———.

Form of declaration.

Witness my hand the ——— day of ———.

A. B.

43 If upon examination of the goods so entered it shall appear to the officers of the customs that the same are not valued according to the true wholesale market value thereof, it shall be lawful for such officers to detain such goods, and

Goods undervalued to be detained,

39—00 Digitized by Google

within two days from the day on which such goods shall be finally examined for duty by the proper officers to take such goods for the use of the Crown; and the collector shall, from the daily collection of the port, or by an advance from the Treasury, cause the amount of such valuation, together with the duties paid upon such goods, to be paid to the importer or proprietor of such goods in full satisfaction for the same, and shall dispose of such goods for the benefit of the Crown, and if the produce of such sale shall exceed the sums so paid and all charges incurred by the Crown, one moiety of such surplus shall be paid to a separate fund at the disposal of the Governor, and be distributed by him at such periods and in such proportions to or amongst such meritorious officers as the Principal Collector shall submit as most deserving, and the other moiety shall be accounted for, paid, and carried to account as duties of customs.

and sold for the benefit of the Crown.

VII.—*Entry of Goods re-imported.*

Entry of re-imported goods by bill of store.

44 All goods, the produce or manufacture of Ceylon, re-imported, shall be deemed and taken to be and be entered as foreign produce or manufacture, and shall be liable to the same duties, rules, regulations, and restrictions as such goods of foreign produce and manufacture would be liable to on importation thereof, unless the same shall be re-imported within two years after the exportation thereof, and unless it be proved to the satisfaction of the proper officers that the property in such goods has continued and still remains in the person by whom or on whose account the same have been exported, the same may be entered as goods, the produce or manufacture of Ceylon, by bill of store containing such particulars, and in such form and manner as the collector may direct.

Bill of store may be issued by the proper officer.

45 The person in whose name any goods re-imported were entered for exportation shall deliver to the proper officer of customs an exact account signed by him of the particulars of such goods referring to the entry and clearance outwards, and to the return inwards of the same, with the marks and numbers of the packages, both inwards and outwards; and thereupon the officer finding that such goods had been legally exported shall grant a bill of store for the same; and if the person in whose name such goods were entered for exportation was not the proprietor thereof, but his agent, he shall declare in such bill of store the name of the person by whom he was employed as such agent; and if the person to whom such returned goods are consigned shall not be such proprietor and exporter, he shall make and subscribe a declaration in such bill of store of the name of the person for whose use such goods have been consigned to him, and the real proprietor ascertained to be such shall make and subscribe a declaration upon such bill of store to the identity of the goods so exported and so returned, and that he was at the time of exportation and of re-importation the proprietor of such goods, and that the same had not during such time been sold or disposed of to

Agent to declare name of employer. Consignee to declare who is proprietor.

Proprietor to declare to identity and property unchanged.

Digitized by Google

any other person, and such declaration shall be made before the collector, and thereupon the collector shall admit such goods to entry by bill of store, and grant his warrant accordingly.

The entry by bill of store to be granted.

VIII.—*Removal of Goods by Sea or Inland Carriage.*

46 Goods may be removed or carried from one port of this island to any other port therein by sea or inland carriage previous to payment of duties, on the owner or his agent duly entering the same, and giving bond to the satisfaction of the collector for the due delivery thereof at the custom house of the port to which such goods are to be removed; and if the seals of office attached to such packages be broken, or if the contents shall not be found to agree with the particulars of entry and advice from the port of removal, such packages, with their contents, shall be forfeited, and the bond given for the safe and due delivery of the goods enforced. The Governor may from time to time direct and appoint rules, regulations, and restrictions in respect to the said removal of goods, and all goods carried or removed contrary thereto shall be forfeited.

Goods may be removed by land, or from one sea port to another in the island.

IX.—*Regulations Outwards.*

47 And whereas it is expedient that the officers of customs should have full cognizance of all ships departing from any port or place in this island and of all goods taken out of this island: It is enacted that the master of every ship shall, before any goods be laden therein, deliver to the collector a certificate from the proper officer of the due landing of the inward cargo of such ship, of her last voyage, and also an entry outwards under his hand, stating her name, country, and tonnage, the port of registry, the name of the master and of the owners, and the number of the crew and passengers, and the destination of such ship. If any goods be laden on board any ship before such entry be made, the master of such ship shall forfeit a sum not exceeding fifty pounds.

Ship to be entered and goods cleared before shipment.

48 No goods shall be laden, put off, or waterborne to be shipped for exportation or coastwise, or shipped on board any vessel, except on days not being Sundays or holidays, nor before six in the morning, nor later than four in the afternoon, nor from any place except some legal quay or other duly appointed place, nor without the presence or authority of the proper officer of customs, nor before due entry outwards of such ship, nor before such goods shall have been duly entered and duly cleared for shipment by such officer, who may open all packages and fully examine all goods brought and intended for shipment; and all goods laden, waterborne, or shipped contrary to such regulations, or shipped on board any vessel not duly entered outwards, may be re-landed by the proper officers of customs, and shall be forfeited, together with the means of conveyance.

Periods and hours of shipment of goods.

49 When it shall become necessary to lade heavy goods on board any ship before the whole of the inward cargo is

Stiffening order.

Digitized by Google

discharged, the collector may, previous to the entry outwards of the ship, issue a stiffening order, sanctioning the shipment of the goods.

Stores.

50 On due requisition by the master the collector may allow for the use of such ship such stores as may appear necessary accordii g to the voyage upon which she is about to depart, but no articles taken on board any ship shall be deemed to be stores unless duly shipped as such by entry or by permit of the collector or other proper officer.

Collector may grant general sufferance for the shipping of goods.

51 On the entry outwards of any ship the collector shall grant a general sufferance for the shipment and lading of any sort of goods, the produce or manufacture of this island, except such as shall be expressly excepted therein: Provided always that before the clearing outwards of such ship, the exporter of any goods on board the same shall deliver to the collector an entry, containing an accurate specification of the quantity, quality, and value of such goods; and if such declaration be false, or if he fail to make such entry before the content of the ship is delivered in by the master, he shall forfeit a sum not exceeding twenty pounds; and the collector may refuse to certify such shipment on the clearance of such ship.

Subsequent entry and penalty on failure.

Master to deliver content.

52 Before any ship, whether laden or in ballast, shall be cleared outwards at any port in this island, the master shall deliver a content of such ship, setting forth the name and tonnage of such ship and the place or places of her destination, and the name of the master, the number of passengers, also, if laden, an account of the goods shipped on board, and of the packages containing such goods, and of the marks and numbers upon such packages, and a like account of the goods on board, if any, which had been reported inwards for exportation in such ship, so far as any of such particulars can be known by him, and the master of the ship shall furnish such content in duplicate, and shall make and sign a declaration before the collector to the truth of such content, and shall also answer such questions concerning the ship, the cargo, and the intended voyage, as the collector shall demand of him, and, if required by the collector, shall produce to him any bill or bills of lading, or a true copy thereof, for any and every part of the cargo laden on board, and thereupon the collector or other proper officer shall make out and give to the master a certificate of the clearance of such ship for her intended voyage, containing an account of the total quantities of the several sorts of goods laden therein, or a certificate of her clearance in ballast, as the case may be; and if the ship shall depart without such clearance, or if the master shall deliver a false content, he shall forfeit a sum not exceeding one hundred pounds.

answer questions, and produce bills of lading.

Certificate of clearance.

Officers may board vessels after clearance.

53 It shall be lawful for the officers of the customs to go on board any ship before and after clearance outwards within the limits of any port in this island, or within two leagues of the coast thereof, and to demand the certificate of clearance and the victualling bill, and if there be any goods

Digitized by Google

on board subject to duty and not duly entered outwards, such goods shall be re-landed and forfeited; and if any goods contained in such clearance or victualling bill be not on board, the master shall forfeit a sum not exceeding twenty pounds for every package or parcel of goods contained in such clearance or victualling bill and not on board.

X.—*Trade by Vessels of less than 15 tons burthen.*

54 No goods shall be imported into or exported from this island from or to parts beyond the seas in any ship of less burthen than fifteen tons, and any goods so imported or exported shall be forfeited: Provided that it shall be lawful for the Governor, by any Proclamation to be by him issued and published in the *Government Gazette*, to allow ships or boats under fifteen tons burthen to import or export any goods from or to parts beyond the seas, at such ports or places, and during such periods or times and in such manner as may be deemed expedient, upon any pearl fishery or other occasion appearing to require the same.

No goods to be imported or exported in vessels of less than 15 tons.

Proviso.

Unless by Proclamation of the Governor.

XI.—*Regulations Coastwise.*

55 All ships conveying goods coastwise, and all goods imported or exported coastwise, shall be liable to the like cognizance of the customs, and be subject to the same prohibitions, restrictions, regulations, fines, forfeitures, and penalties as goods imported from or exported to parts beyond the seas, and it shall be lawful for the Governor to make and appoint such other regulations, by any Proclamation to be by him issued and published in the *Government Gazette*, for the carrying coastwise of any goods, as to him shall appear expedient, and such Proclamation shall have the same effect in law as if it had formed part of this Ordinance.

Coastwise trade.

56 No goods shall be carried in any coasting ship except such as shall be laden to be so carried at some port or place in this island, and if any goods shall be taken into or put out of any coasting ship at sea, or over the sea, or if any coasting ship shall touch at any place over the sea, or deviate from her voyage, unless forced by unavoidable circumstances, or if the master of any coasting ship which shall have touched at any place over the seas shall not declare the same in writing under his hand to the collector at the port in this island where such ship shall afterwards first arrive, the master of such ship shall be liable to forfeit a sum not exceeding one hundred pounds.

What goods shall be carried coastwise.

XII.—*Warehousing of Goods.*

57 The Governor may, by Proclamation from time to time, appoint the ports in this island which shall be warehousing ports for the purposes of this Ordinance, and the collectors of such ports may from time to time, by notice in writing under their hands, approve and appoint warehouses or places of security in such ports, and direct in what different parts or divisions of such warehouse or places, and in what manner, and under what regulations, any and what

Power to appoint warehousing ports.

Appointment of warehouses.

Digitized by Google

sort of goods may be warehoused, kept, and secured without payment of duty upon the first entry thereof, and may also direct in what cases, and with what sureties, and to what amount, security by bond shall be required in respect of any warehouse so approved or appointed as aforesaid, or in respect of any goods deposited therein, or for the security of the duties due thereon; and such collectors may by a like notice revoke or alter any such appointments or declarations; but every such notice of the appointment of warehouses, or of the revoking thereof, shall be subject to the Governor's approval, and shall be published in such manner as he may direct.

Warehouse keeper to give security.

58 The proprietor or occupier of every warehouse approved of and appointed as aforesaid, or some one on his behalf, shall give or procure to be given security by bond with two sufficient sureties, or such other security as the collector may approve, for the payment of the full duties of importation on or for the due entry for exportation of all such goods as shall at any time be warehoused therein, and no goods shall be warehoused in any such warehouse until such security shall have been given.

Importer under certain restrictions may warehouse goods.

59 The importer of any goods into any warehousing port may warehouse the same in warehouses appointed as aforesaid, or in any public warehouse, without payment of any duty on the first entry thereof, subject to the regulations, restrictions, and conditions hereinafter mentioned and from time to time directed by the collector; but nothing herein contained shall be construed to render it incumbent on Government to provide accommodation for the warehousing of goods, or for the deposit of salt, which shall be warehoused only in private warehouses.

Entry for the warehouse.

Particulars.

Warrant for warehousing.

Bond upon entry of goods for the warehouse.

60 The importer of any goods intended to be warehoused without payment of duty on the first entry thereof, or his agent, shall deliver to the collector a bill of entry of such goods in the same manner and form and containing the same particulars as are hereinbefore required on the entry of goods to be delivered for home use, as far as the same shall be applicable, and the name and description of the warehouse in which such goods are intended to be warehoused, and the name of the person in whose name they are to be so warehoused, and such bill of entry when signed by the collector or other authorized officer shall be transmitted to the proper officer of customs and be the warrant for the examination and due warehousing of such goods, and all goods not duly entered shall be liable to forfeiture; but the collector may, if he see fit in any case so to do, require bond to be given by the importer or consignee in treble the amount of duties due thereon for the safe deposit and due clearance of such goods.

Goods warehoused to be marked and numbered, &c.

61 All goods so entered to be warehoused shall before deposit in any warehouse be properly marked and numbered by the importer in legible characters with the initials of the owner, importer, or consignee, or other distinguishing marks,

Digitized by Google

and the goods shall be stowed so as to afford easy access thereto, and to every package or parcel in such parts or divisions of the warehouse, and in such manner, as the collector or the proper officer shall direct, and if the stowage be broken the goods shall be re-piled by the person breaking such stowage in such manner as the collector may require, and the neglect or refusal to stow or re-pile them as hereinbefore directed shall subject the occupier of the warehouse, or the person so offending, to a fine not exceeding five pounds. The warehouses shall be locked and secured in such manner, and shall be opened from ten o'clock in the forenoon to four o'clock in the afternoon daily, Sundays and holidays excepted, and visited only at such times and in the presence of such officers, and under such rules and regulations, as the collector shall direct; and all such goods shall, after being landed upon importation, be carried to the warehouse, or shall after being taken out of the warehouse for exportation or for stores be carried to be shipped, under such rules and regulations as the collector shall direct.

Stowage of goods warehoused.

Penalty.

Locking and opening warehouse.

Carrying goods to and from warehouse.

62 If any goods entered to be warehoused shall not be duly warehoused in pursuance of such entry, or being duly warehoused shall be fraudulently concealed in or removed from the warehouse, or abstracted from any package, or transferred from one package to another, or otherwise, for the purpose of illegal removal or concealment, they shall be forfeited, together with the goods with which they shall have been so packed, and the packages in which they shall have been concealed.

Goods not duly warehoused or fraudulently concealed or removed, forfeited.

63 If the warehouse keeper of any warehouse shall not produce to any authorized officer of customs on his request any goods deposited in such warehouse which shall not have been duly cleared and delivered therefrom, such warehouse keeper shall for every such neglect forfeit the sum of five pounds in respect of every package or parcel not so produced.

Warehouse keeper neglecting to produce goods deposited when required, to forfeit £5.

64 If the warehouse keeper of any warehouse, or the importer or proprietor of any goods warehoused therein, or any person in his employ, shall clandestinely open the warehouse or gain access to the goods except in the presence of the proper officer of customs acting in the execution of his duty, such warehouse keeper, importer, or proprietor shall for every such offence forfeit a sum not exceeding one hundred pounds.

Importer or proprietor clandestinely gaining access to warehoused goods, to forfeit £100.

65 If any goods shall be taken out of any warehouse without due entry of the same with the proper officer of customs, the warehouse keeper of such warehouse shall forthwith pay the duties due upon such goods, and every person so taking out any goods without payment of duty, or who shall aid, assist, or be concerned therein, and every person who shall wilfully destroy or embezzle any goods duly warehoused, shall be deemed guilty of a misdemeanour, and shall upon conviction suffer the punishment by law inflicted in

Duty on goods taken out of warehouse without entry to be paid by warehouse keeper.

Persons taking out of or destroying goods in

Digitized by Google

warehouse to be deemed guilty of a misdemeanour. Importer or consignee defrauded by officers to be indemnified.

cases of misdemeanour; but if such person shall be an officer of customs not acting in the due execution of his duty, and shall be prosecuted to conviction by the importer, consignee, or proprietor of such goods, no duty shall be payable for or in respect of such goods, and the damage occasioned by such waste, spoil, or embezzlement shall, with the sanction of the Governor, be repaid or made good to such importer, consignee, or proprietor by the collector of customs.

Collector may remit duties on warehoused goods lost or destroyed.

66 If any goods entered to be warehoused, warehoused, or entered to be delivered from the warehouse, shall be lost, damaged, or destroyed by unavoidable accident, either in receiving into the warehouse or in the warehouse, the collector may remit the duties due thereon.

Landing account to be taken of goods for the warehouse.

Contents to be marked on packages and in landing book.

67 Upon the entry and landing of any goods to be warehoused the proper officer of customs shall take a particular account of such goods at the quay, wharf, or warehouse at which they shall be so landed, and shall enter in a book prepared for that purpose the name of the importing ship, and of the person in whose name they are entered, the marks, numbers, and contents of every such package, the description of the goods, and the warehouse in which the same shall be deposited, and when the same shall have been so deposited with the authority of such officer, he shall certify that the entry and warehousing of such goods is complete, and such goods shall from that time be considered goods warehoused; and if any such goods shall be delivered, withheld, or removed from the proper place of examination before the same shall have been duly examined and certified by such officer, such goods shall be deemed to be goods not duly entered or warehoused, and shall be liable to be forfeited.

Goods to be entered and duties paid according to landing account.

68 The account of goods so taken as aforesaid shall be the account upon which the duties payable upon such goods shall be ascertained, when the same shall ultimately come to be delivered upon due entry for that purpose, and the same shall be entered and the full duties due thereon be paid, according to the quantity taken in such account, without any abatement for any deficiency except as hereinafter provided.

Goods to be cleared within two years.

Proviso.

Duties to be paid upon deficiencies, &c.

69 All warehoused goods shall be cleared either for home use or exportation within two years from the date on which the same were warehoused, or within such further period as the collector shall allow, in which case the goods shall be examined by the proper officers, and the duties due upon any deficiency or difference between the quantity ascertained on landing, and the quantity found to exist on such examination, together with the warehouse rent and necessary expenses attendant thereon, shall, subject to such allowances as are by law permitted in respect thereof, be paid down, and the quantity so found shall be re-warehoused in the name of the then owner or proprietor thereof, in the same manner as on first importation.

Digitized by Google

70 If any warehoused goods shall not be duly cleared, exported, or re-warehoused, and the duties ascertained to be due on the deficiencies as aforesaid shall not be paid at the expiration of two years from the previous entry and warehousing thereof, or within such further period as shall be permitted by the collector, the same, if worth the duty due thereon, shall after one month's notice to the warehouse keeper, importer, or consignee, be sold either for home use or exportation with or without the consent of the warehouse keeper, importer, or consignee; and the proceeds thereof shall be applied to the payment of the duties, warehouse rent, and charges, and the surplus, if any, shall be paid to the owner or proprietor of such goods, if known; but if such owner or proprietor cannot be found, such surplus shall be carried to the account of Government to abide the claim of such owner or proprietor on his appearing and making good his claim thereto within one year from the date of sale; and if such goods shall not be worth the duty, then the same after such one month's notice as aforesaid may be exported or may be destroyed, with or without the concurrence of the owner thereof, or the warehouse keeper of the warehouse in which the same were so warehoused, as the collector shall see fit; and the duties due upon any deficiency thereof not allowed by law shall, if required by the collector, be forthwith paid by the warehouse keeper.

Goods not cleared or re-warehoused or duties paid on deficiencies after two years, to be sold.

Proceeds of sale how to be applied.

Goods not worth the duty may be exported or destroyed.

71 With the sanction of the collector, and after such notice given by the respective importers or proprietors, and at such times and under such regulations and restrictions as the collector shall from time to time require and direct, it shall be lawful in the warehouse to sort, separate, pack, and re-pack any goods, and to make such alterations therein as may be necessary for the preservation, sale, shipment, or disposal thereof; provided that such goods be re-packed in the packages in which they were imported, or in such other packages as the collector shall permit; and also to draw off any wine or any spirits into reputed quart or pint bottles for exportation only; and also to fill up any cask of wine, beer, or spirits from any other casks of the same, repectively secured in the same warehouse, and also to take such moderate samples of goods as may be allowed by the collector with or without entry, and with or without payment of duty, except as the same may eventually become payable as on a deficiency of the original quantity; and the duty on the surplus, if any, of such goods as may be delivered for home use shall be immediately paid, and such surplus shall thereupon be delivered for home use accordingly; and after such goods have been so separated and re-packed in proper or approved packages, the collector may, at the request of the importer or proprietor of such goods, cause or permit any refuse, damage, or surplus goods occasioned by such separation or re-packing, or at the like requests, any goods which may not be worth the duty, to be destroyed, and may remit the duty payable thereon.

Goods in warehouse may be re-packed.

Damaged parts may be destroyed.

Digitized by Google

Entry for exportation or home use.

72 No warehoused goods shall be taken or delivered from the warehouse, except upon due entry and under the care of the proper officers, for exportation or to be shipped as stores, or upon due entry and payment of the full duties payable thereon for home use.

Bill of entry for warehoused goods delivered for home use.

Duties to be paid according to landing account, except in certain cases when duties are to be charged on ascertained quantity on delivery, unless deficiency has been caused by improper means.

73 Upon the entry of any goods to be cleared from the warehouse for home use, the person entering such goods shall deliver a bill of entry, and duplicates thereof, in like manner and form and containing the same particulars as hereinbefore required on the entry of goods to be delivered for home use on the landing thereof, as far as the same may be applicable, and shall at the same time pay down to the proper officer of customs the full duties payable thereon, not being less in amount than according to the account of the quantity taken by the landing waiter or other proper officer on the first entry and landing thereof, except as to the following goods, viz., rice, wine, beer, spirits, and sugar, the duties whereon when cleared from the warehouse for home use shall be charged upon the quantity of such goods ascertained by weight, measure, or gauge at the time of actual delivery thereof, unless there is reasonable ground to suppose that any portion of the deficiency or difference between the weight, measure, or gauge ascertained on landing and first examination of any such last-mentioned goods and that ascertained at the time of actual delivery has been caused by illegal or improper means, in which case the proper officer of customs shall make such allowance only for loss as he may consider fairly to have arisen from natural evaporation or other legitimate cause.

Value of goods for allowance on deficiencies to be estimated at market price.

74 When any deficiency occurs in goods chargeable to pay duty according to the value thereof, the value thereof shall be estimated as nearly as conveniently may be by the officers of customs according to the market price of the like sort of goods.

Deficiencies on goods exported not to be charged with duty unless fraudulent.

75 No duty shall be charged in respect of any deficiency in goods entered and cleared from the warehouse for exportation, unless the officers of customs have reasonable ground to suppose that such deficiency, or any part thereof, has arisen from illegal abstraction.

On entry outward, bond for due shipment and landing shall be given.

76 Before any warehoused goods subject to duties of customs shall be permitted to be exported, the exporter or his agent shall give security by bond to be approved of by the collector in treble the amount of duty payable by law upon the importation of such goods, with one sufficient surety, if required by the collector, that such goods shall be duly shipped and exported, and shall be landed at the place for which they are entered outwards or otherwise accounted for, to the satisfaction of the collector, and shall, if required, produce a certificate, under the hands of the proper officers at the port of landing, of the due landing of the goods at such port as aforesaid.

General bond for warehoused goods exported.

77 The collector may, in such instances as he shall deem advisable, accept, in lieu of separate bonds as aforesaid, from

Digitized by Google

the known resident exporters and shippers of goods, general bonds with one or two sufficient securities or such other security as the collector may approve of, to such an amount as shall be necessary for the due shipment, exportation, and landing at the place for which they are entered outwards of all warehoused goods exported by such persons, but such general bonds shall only be in force for two years, and may be revoked and cancelled whenever the collector shall see fit.

78 It shall be lawful for the Governor, after notice published in the *Government Gazette*, to direct that after the expiration of twelve months from the date of such notice no goods or merchandise shall be warehoused in any public warehouse or premises, and to convert all or any of such warehouses or premises in use as bonding warehouses at the time of such notice to other purposes of customs accommodation, and any goods not cleared from such public warehouse by removal to other approved bonding warehouse, or by entry for home consumption or exportation, at the expiration of such notice aforesaid, shall be sold by the collector in like manner as is provided for the sale of unclaimed goods.

Governor may close bonded warehouse.

XIII.—*General Regulations.*

79 Whereas it is desirable to facilitate the despatch of steamers, it shall be lawful for the Governor, with the advice of the Executive Council, to make special regulations from time to time relating to the entry inwards and outwards of such steamers, and the landing, shipping, and transhipping of goods by them, and such regulations, when duly published, shall have the same effect in law as if they formed part of this Ordinance.

Special regulations for steamers

80 All goods or merchandise which shall be lodged in any Queen's warehouse under the provisions of this Ordinance, not being goods seized as forfeited to Her Majesty, shall, when landed, continue and be subject and liable to such and the same claim for freight and general average in favour of the master, owner, or agent of the respective ship, or of any other person interested in the freight or general average from which such goods or merchandise shall have been so landed, as such goods or merchandise respectively were subject and liable to before the landing thereof.

Goods lodged in Queen's warehouse liable to claims for freight, &c.

The collector is hereby authorized and required, upon due notice in writing given to him by such master, owner, agent, or other persons as aforesaid, specifying the particulars of the goods and the amount of freight or general average to which they are liable, to detain and keep the whole or such portions of such goods and merchandise, not being seized as forfeited to Her Majesty, in the Queen's warehouse as will cover the amount of freight, general average, and the landing charges due, until proof of payment of the same, or until a deposit shall have been made by the owner or consignee of such goods or merchandise equal in amount to the claim or demand made by the master, owner, or agent of the respective ship, or other persons as aforesaid, for or on account of

Collector required to detain goods for freight, &c.

Digitized by Google

freight, general average, and charges as aforesaid, upon such goods or merchandise.

Collector to receive deposit for freight, &c.

The collector is hereby authorized and directed to receive and hold in trust such deposit until the claim or demand for freight, general average, and charges as aforesaid upon such goods shall have been satisfied or withdrawn, upon proof of which, and demand made by the person by whom the said deposit shall have been made, the said deposit shall be returned by the collector; but if settlement of such claim for freight, general average, and charges as aforesaid shall not be made, or the claim withdrawn by parties making such deposit within ninety days from the date of deposit, it shall be lawful for the collector to pay to the master, owner, agent, or other person as aforesaid the amount so deposited in liquidation of the claim made for freight, general average, and charges as aforesaid at the time of the detention of the goods liable thereto.

Claim to be settled within ninety days.

Notice of action may be given.

If the person making such deposit as aforesaid shall within thirty days serve on the collector notice that he has brought his action to recover the money the liability to which is disputed, the collector shall immediately pay into court, as a deposit in the said action, the sum the liability to pay which is disputed.

Collector to pay deposit into court.

Collector may pay portion not disputed.

If any portion of the amount deposited with the collector is admitted by such notice to be payable to the master, owner, agent, or other person as aforesaid, the collector shall pay such portion; the court shall receive the sum deposited by the collector, to be paid over to the party who shall be declared ultimately entitled to the same.

Court to receive and dispose of deposit.

Collector not bound to see as to validity of any lien.

The collector shall not be bound to see to the validity of any lien claimed by any master, owner, agent, or other person as aforesaid.

Power to sell goods not cleared in ninety days.

If any goods or merchandise deposited as aforesaid be left in any custom house or Queen's warehouse for a longer period than ninety days from the date of landing, such goods shall, after public advertisement, be sold by public auction either for home use or exportation, and the proceeds thereof applied first to the payment of the duties due thereon, the warehouse rent, and expenses of sale, then to the payment of the freight, general average, and charges claimed as aforesaid, and the overplus, if any, shall be paid to the proprietor of the goods; but if there be no such proprietor, such overplus shall be paid into the Treasury, and if not claimed within one year from the date of the sale of such goods such overplus shall be brought to account as revenue: Provided that goods of a perishable nature or in a damaged condition may, after public advertisement, be sold forthwith, and if not saleable may be destroyed, and neither the proprietor nor claimant of the freight, general average, and charges as aforesaid, due on any goods sold or destroyed as aforesaid, shall have any claim on the collector for or on account thereof. The collector shall not be required to detain for freight, general average, or charges as aforesaid, horses, cattle, or other live

Perishable goods may be sold at once.

Collector not required to detain live stock.

Digitized by Google

stock, unless proper provision be made by the person detaining the same for the feeding, care, and housing of such live stock.

Bonds to be taken by collector.

81 All bonds relating to the customs required to be given in respect of goods or ships shall be taken by the collector for the use of Her Majesty, and after the expiration of three years from the date thereof, or from the time, if any, limited therein for the performance of the condition thereof, every such bond upon which no prosecution or suit shall have been commenced shall be void, and may be cancelled and destroyed.

Goods concealed in packages or delivered without entry, forfeited.

Passengers' baggage.

82 If any goods, packages, or parcels shall be landed, taken, or passed out of any ship, or out of any warehouse, not having been duly entered, the same shall be forfeited: Provided always that no entry shall be required in respect of the baggage of passengers, which may be landed, examined, and delivered under such regulations as the collector may direct; but if any prohibited or uncustomed goods shall be found concealed therein, either before or after landing, the same shall be forfeited, together with the contents of the packages and the packages containing the same.

Goods in any warehouse to be at risk of the owner.

83 All goods lodged or deposited in any Queen's warehouse or other place of deposit provided by Government shall be so deposited at the risk of the owner, importer, or consignee, who shall have no claim on the Crown to compensation for loss by fire, theft, damage, or other cause, except such loss be proved by the prosecution to conviction (within one year from the date at which such wilful embezzling, waste, spoil, or destruction is alleged to have taken place) of the offending party to have been caused by the wilful embezzlement, waste, spoil, or destruction of any officer of customs, and in which case no duty shall be leviable on such goods.

Power to sell goods not cleared within three months.

84 All goods left in any Queen's warehouse or on the customs premises for a longer period than three months, unless permitted to remain by the special permission of the collector, shall, after public advertisement, be sold by auction to answer the duties, warehouse rent, or other charges due thereon, and any overplus shall be paid, if claimed within twelve months from the date of sale, to the owner of such goods, who shall have no further claim touching the same, but if there be no claimant such overplus shall be brought to account as revenue: Provided that any goods of a perishable nature which shall be left in the warehouse or customs premises, or in any bonded warehouse, uncleared, may be sold forthwith, or if not saleable may be destroyed, and the proprietor of any goods sold or destroyed as aforesaid shall have no further claim for or on account thereof.

Proviso.

Government may appoint ports and quays, and alter or annul the same.

85 The Governor may by Proclamation appoint any place to be a haven, creek, port, or warehousing port in this colony, and declare the limits thereof, and appoint proper places within the same to be legal quays for the lading and unlading of goods, and declare the bounds and extent of any such

Digitized by Google

quays, or annul the limits of any port, haven, creek, or legal quay already appointed, or to be hereafter appointed, and declare the same to be no longer a port, warehousing port, haven, creek, or legal quay; and all ports, warehousing ports, havens, and creeks, and the respective limits thereof, and all legal quays appointed, set out, and existing as such at the time of the passing of this Ordinance shall continue to be such ports, havens, creeks, and quays until annulled or altered as aforesaid.

Existing ports to continue.

Collector to appoint wharves.

86 The collector may from time to time, by any order under his hand, and under such restrictions and regulations as he shall see fit, appoint proper places for the lading and unlading of goods.

Officers may refuse master of ship, unless his name is endorsed on registry.

87 The officers of customs may refuse to allow any person to do any act as master of any British ship, unless his name is inserted in or endorsed upon the certificate of registry of such ship as being the master thereof.

Collector to grant licenses to custom house agents.

88 The collector may and he is hereby authorized to grant licenses in such form and manner and to such persons as he shall think fit, to act as agents for transacting business which shall relate to the entry or clearance of any ship, or of any goods, or of any baggage, in any of the ports or places in this island, and only persons so appointed shall act as agents as aforesaid, and the collector may cancel or revoke for fraud or misconduct any license so granted to any such person: Provided that such license shall not be required by the clerk, servant, or known and accredited agent of any person or mercantile firms for transacting business at the custom house, on account of such person or firm; but whenever any person shall make any application to any officer of the customs to transact any business on behalf of any other person, it shall be lawful for such officer to require the person so applying to produce a written authority from the person on whose behalf such application shall be made, and in default of the production of such authority to refuse to transact such business.

Parties applying to transact business for others to produce written authority for so doing.

No vessel to be hauled on shore without permission.

Boat to be removed from wharf when directed.

89 No ship or boat shall be hauled on shore at any public wharf, quay, beach, or landing place in this colony, for the purpose of repairs or otherwise, without permission from the collector, and no boat shall remain alongside of any wharf or landing place after the owner or person in charge shall be directed to remove the same by the proper officer of customs; and any person hauling any ship or boat on shore without such permission as aforesaid, and the owner or person in charge of any boat refusing or neglecting to remove the same when ordered as aforesaid, shall be liable to a fine not exceeding five pounds, and such ship or boat may be detained by the collector until payment of the fine imposed.

Penalty.

No timber, &c., to be left on wharf for more than one day.

90 If any timber or other heavy or bulky articles be left on any public quay, jetty, wharf, beach, or landing place in this colony for more than one day, so as to interrupt or hinder the free use thereof, it shall be lawful for the collector, after

Digitized by Google

twelve hours' notice in writing given to the owner thereof or to his agent, to remove the same; and such owner shall be liable to a penalty not exceeding five pounds, and such goods shall not be delivered up to the owner thereof until after payment of the said penalty, together with the charges attending the removal of the same; and if such goods shall not be removed within six days after notice given as aforesaid, it shall be lawful for the collector to sell the same by public auction, and to deduct from the proceeds the amount of such penalty and all charges which may have been incurred on account of such goods, and the surplus if any, shall be paid to the owner.

Officers may board ships hovering on the coasts,

91 It shall be lawful for the officers of customs to go on board any ship in any port or place in this colony, or hovering within one league of the coast thereof, and to rummage and search all parts of such ship for prohibited and uncustomed goods, and freely to stay on board such ship so long as she shall remain in such port or place or within such distance; and if any such ship shall be bound elsewhere, and shall continue so hovering for the space of twenty-four hours after the master shall have been required to depart, it shall be lawful for the officers of customs to bring such ship into port, and to search and examine her cargo, and to examine the master touching the cargo and voyage; and if there be any goods on board prohibited to be imported into this island, and if the master shall not truly answer the questions which shall be demanded of him on such examination, he shall forfeit a sum not exceeding one hundred pounds.

and bring them into port.

Penalty.

Making false declaration.

92 If any person shall make and subscribe any declaration, certificate, or other instrument required by this Ordinance to be verified by signature only, the same being false in any particular; or if any person shall make or sign any declaration made for the consideration of the collector or the proper officer of customs on any application presented to him, the same being untrue in any particular; or if any person required by this or any other Ordinance relating to the customs to answer questions put to him by the officers of customs, shall not truly answer such questions; or if any person shall counterfeit, falsify, or wilfully use when counterfeited or falsified, any document required by this or any Ordinance relating to the customs, or by or under the directions of the collector of customs, or any instrument used in the transaction of any business or matter relating to the customs, or shall fraudulently alter any document or instrument, or counterfeit the stamp, seal, signature, initials, or other mark of or used by the officers of the customs for the verification of any such document or instrument, or for the security of goods, or any other purpose, in the conduct of business relating to the customs, every person so offending shall for every such offence forfeit a sum not exceeding one hundred pounds: Provided always that this penalty shall not attach to any particular offence for which any other penalty shall be expressly imposed by any law in force for the time being.

Signing false documents and untruly answering questions.

Counterfeiting and using false documents.

Penalty.

Proviso.

Digitized by Google

Bond entered into with the collector for the due performance of anything relating to the customs, to be valid in law.

93 And whereas it frequently occurs that certain indulgences are granted to merchants and others by the collector of customs on bond being given for the security of the revenue, and as doubts may arise whether such bonds would in law be valid: It is therefore enacted and declared that in all cases where bonds shall be entered into with the collector of customs for the due performance of any order, matter, or thing relative to the customs, such bonds shall be valid in law, and upon breach of any of the conditions thereof may be sued and proceeded upon in like manner as any other bond entered into by virtue of this Ordinance.

94 Repealed by No. 3 of 1883, itself repealed by No. 15 of 1898.

Export, &c., of military and naval stores may be prohibited.

95 The following goods may, by Proclamation made by the Governor, with the advice of the Executive Council, be prohibited either to be exported or carried coastwise; namely, arms, ammunition and gunpowder, military and naval stores, and any articles which the Governor, with the advice of the Executive Council, shall judge capable of being converted into or made useful in increasing the quantity of military or naval stores, provisions, or any sort of victual which may be used as food by man; and if any goods so prohibited shall be exported from Ceylon or carried coastwise, or be waterborne to be so exported or carried, such goods may be seized and shall be forfeited.

Machinery.

96 All machinery for the improvement of the communications and for the development of the resources of this island may be imported free of duty.

Power to the Governor to alter list.
[§ 4, 20 *of 1898*]

97 The Governor, with the advice and consent of the Executive Council, may from time to time alter and extend the list of machinery named in *schedule B* hereto annexed, and which comes within the definition contained in the preceding clause. All such alterations and extensions shall be published in the *Government Gazette*.

Unauthorized persons not permitted to make entries.

98 Every person who shall make or cause to be made an entry inwards or entry outwards of any goods, not being duly authorized thereto by the proprietor or consignee or exporter of such goods, shall for every such offence forfeit a sum not exceeding one hundred pounds.

Samples.

99 It shall be lawful for the collector to authorize the officers of customs to take samples of goods for the purpose of ascertaining the duties payable on such goods, and such samples shall be accounted for in such manner as the collector may direct.

Collector may refuse clearance.

100 The collector may refuse to grant clearance to any ship until the owner, agent, or master of that ship, or some other person, shall have paid all port dues, fees, fines, penalties, or charges to which such ship or the owner or master of such ship in respect thereof shall be liable under this or any other Ordinance: Provided such port dues, fees, fines, penalties, or charges shall have been incurred during her present voyage inwards or outwards.

Digitized by Google

XIV.—*Smuggling, Seizures, and Prosecutions generally.*

101 All goods and all ships and boats which by this Ordinance are declared to be forfeited shall and may be seized by any officer of the customs; and such forfeiture of any ship or boat shall include the guns, tackle, apparel, and furniture of the same, and such forfeiture of any goods shall include all other goods which shall be packed with them, as well as the packages in which they are contained; and all carriages or other means of conveyance, together with all horses and all other animals, and all other things made use of in any way in the concealment or removal of any goods liable to forfeiture under this Ordinance, shall be forfeited.

Smuggling, seizures, and prosecutions generally.

Forfeiture of ship to include tackle, &c.

102 It shall be lawful for any officer of customs, or other person acting in his aid or assistance, or duly employed for the protection of the revenue, upon reasonable suspicion, to stop and examine any cart, carriage, or other means of conveyance, for the purpose of ascertaining whether any smuggled goods are contained therein; and if no such goods shall be found, then and in such case the officer or other person so stopping and examining such cart, carriage, or other conveyance, having had probable cause to suspect that such cart, carriage, or other conveyance had smuggled goods contained therein, shall not on account of such stoppage and search be liable to any prosecution or action on account thereof; and all persons driving or conducting such cart, carriage, or other conveyance, refusing to stop when required so to do in the Queen's name, shall be guilty of an offence and liable on conviction thereof to a fine not exceeding one hundred pounds.

Officers of customs, &c., may on probable cause stop carts, &c., and search for goods.

103 Under authority of a writ of assistance granted by the Chief Justice or any judge of the Supreme Court (who are hereby authorized and required to grant such writ of assistance upon application made to them for that purpose by the collector of customs), it shall be lawful for any officer of the customs, taking with him a peace officer, to enter into and search any building or other place in the daytime; and in case of resistance to break open doors, chests, trunks, or other packages, there to seize and from thence to bring any uncustomed or prohibited goods, and to put and secure the same in the Queen's warehouse; and all writs of assistance so issued shall continue and be in force during the whole of the reign in which such writs shall have been granted, and for twelve months from the conclusion of such reign.

Writ of assistance to search for and seize goods liable to forfeiture.

Duration of writs of assistance.

104 Every person who shall be concerned in importing or bringing into the island any prohibited goods, or any goods the importation of which is restricted, contrary to such prohibition or restriction, and whether the same be unshipped or not, and every person who shall unship or assist, or be otherwise concerned in the unshipping of any goods which are prohibited, or of any goods which are restricted and imported contrary to such restriction, or of any goods liable to duty the duties for which have not been paid or secured, or who shall knowingly harbour, keep, or

Persons concerned in importing prohibited or restricted goods, whether unshipped or not, and persons unshipping, harbouring, or having custody

Digitized by Google

of such goods, to forfeit treble the value, or £100.

conceal, or shall knowingly permit, or suffer, or cause, or procure to be harboured, kept, or concealed, any such goods, or any goods which have been illegally removed without payment of duty from any warehouse or place of security in which they may have been deposited, or into whose hands and possession any such goods shall knowingly come, or who shall assist or be concerned in the illegal removal of any goods from any warehouse or place of security in which they shall have been deposited as aforesaid, or who shall be in any way knowingly concerned in conveying, removing, depositing, concealing, or in any manner dealing with any goods liable to duties of customs, with intent to defraud the revenue of such duties or any part thereof, or who shall be in any way knowingly concerned in any fraudulent evasion or attempt at evasion of such duties or any part thereof, shall in each and every of the foregoing cases forfeit either treble the value of the goods, or the penalty of one hundred pounds, at the election of the collector of customs.

If goods removed prior to examination, penalty upon parties concerned in the removal.

105 Every person who shall remove any goods imported into the island from any ship, quay, wharf, or other place previous to the examination thereof by the proper officer of customs, unless under the care or authority of such officer, or who shall remove or withdraw from any quay, wharf, or other place any goods entered to be warehoused after the landing thereof, so that no sufficient account is taken thereof by the proper officer, or so that the same are not duly warehoused, and every person who shall assist or be otherwise concerned in such removal or withdrawal, or shall knowingly harbour, keep, or conceal, or shall knowingly permit or suffer, or cause or procure to be harboured, kept, or concealed any such goods, or into whose possession any such goods shall knowingly come, every such person shall forfeit either treble the value thereof, or the penalty of one hundred pounds, at the election of the collector of customs.

Persons assisting in unshipping or harbouring such goods liable to treble the value, or £100.

106 Every person who shall assist or be otherwise concerned in the unshipping, landing, or removal, or in the harbouring of such goods, or into whose hands or possession the same shall knowingly come, shall forfeit treble the value thereof, or the penalty of one hundred pounds, at the election of the collector of customs; and the averment in any information to be exhibited for the recovery of such penalty that the collector of customs has elected to sue for the sum mentioned in the information shall be deemed sufficient proof of such election, without any other or further evidence of such fact.

How value to be ascertained.

107 In all cases where any penalty, the amount of which is at any time to be determined by the value of any goods, is directed to be sued for under this Ordinance, such value shall be deemed and taken to be according to the rate and price which goods of the like sort or denomination, and of the best quality, bear at such time at the place of importation, and upon which the duties due upon importation have been paid.

Digitized by Google

108 All goods, and all ships and boats, and all carriages and all cattle, liable to forfeiture under this Ordinance, shall and may be seized in any place, either by land or water, by any officer of the customs or police, or by any headman, or by any person employed for that purpose, by or with the concurrence of the Governor; and every person who shall in any way hinder, oppose, molest, or obstruct any officer of the customs or police, or any headman, or any person so employed as aforesaid in the exercise of his office, or any person acting in his aid or assistance, or shall rescue, or cause to be rescued, any goods which have been seized, or shall attempt or endeavour to do so, or shall before or at or after any seizure stave, break, or otherwise destroy any goods to prevent the seizure thereof, or shall rescue the same, then and in any such case the party so offending shall be guilty of an offence, and shall for every such offence forfeit a sum not exceeding one hundred pounds.

Goods, vessels, &c., liable to forfeiture may be seized by officers, &c.

Persons resisting officers, or rescuing or destroying goods to prevent seizure, to forfeit £100.

109 If any goods liable to forfeiture under this Ordinance shall be stopped or taken by any police officer or headman, such goods shall be conveyed to the custom house nearest to the place where the goods were stopped or taken, and there delivered to the proper officer appointed to receive the same, within a reasonable time after the said goods were stopped and taken; and in case any police officer or headman stopping such goods shall neglect to have the same conveyed to such custom house within a reasonable time, such police officer or headman shall forfeit a sum not exceeding ten pounds.

Goods stopped or taken by police officer.

110 If any officer of the customs, or any person employed for the protection of the revenue, shall make any collusive seizure, or deliver up, or make any agreement to deliver up, or not to seize any ship, boat, or goods liable to forfeiture under this Ordinance, or shall take any bribe, gratuity, recompense, or reward for the neglect or non-performance of his duty, every such officer or other person shall forfeit for every such offence a sum not exceeding £100, and be rendered incapable of serving this Government in any office whatever; and every person who shall give or offer, or promise to give or procure to be given any bribe, recompense, or reward to, or shall make any collusive agreement with, any such officer or person as aforesaid, to induce him in any way to neglect his duty, or to do, conceal, or connive at anything whereby the provisions of this Ordinance may be evaded, shall forfeit a sum not exceeding one hundred pounds.

Officers making collusive seizures, or taking bribes, and persons giving bribes, subjected to penalties.

111 It shall be lawful for any officer of customs to go on board any ship which shall be within the limits of any port in this colony, and search any person on board, and it shall be lawful for him to search any person who shall have landed from any ship, or any person passing or having passed through the custom house, provided such officer shall have good reason to suppose that such person shall have any uncustomed or prohibited goods secreted about his person;

Officers may search persons on board or on shore in certain cases.

Digitized by Google

Penalty for obstructing the officer.

and if any person shall obstruct any such officer in the performance of any such duty, every such person shall be guilty of an offence, and shall be liable on conviction thereof to a fine not exceeding one hundred pounds.

Before such search the person may require to be taken before a justice of the peace or a superior officer of the customs.

112 Before any person shall be searched by any such officer as aforesaid it shall be lawful for such person to require such officer to take him before a justice of the peace, or before the collector or other superior officer of customs, who shall determine whether there is reasonable ground to suppose that such person has any uncustomed or prohibited goods about his person ; and if it shall appear to such justice, collector, or other superior officer of customs that there is reasonable ground to suppose that such person has any uncustomed or prohibited goods about his person, then such justice, collector, or other superior officer of customs shall direct such person to be searched in such manner as he shall think fit ; but if it shall appear to such justice, collector, or other superior officer of customs that there is not reasonable ground to suppose that such person has any uncustomed or prohibited goods about his person, then such justice, collector, or other superior officer of customs shall forthwith discharge such person, who shall not in such case be liable to be searched ; and every such officer as aforesaid is hereby authorized and required to take such person, upon demand, before any such justice, collector, or other superior officer of customs, detaining him in the meantime : Provided that no person being a female shall be searched by any other person than a female duly authorized for that purpose by the collector of customs.

Proviso.

Penalty on officers for misconduct with respect to search.

113 If any such officer shall not take such person with reasonable despatch before such justice, collector, or other superior officer of customs when so required, or shall require any person to submit to be searched by him, not having reasonable ground to suppose that such person has any uncustomed or prohibited goods about his person, such officer shall forfeit and pay a sum not exceeding ten pounds.

Penalty on persons on board falsely denying having foreign goods about them.

114 If any passenger or other person on board any ship or boat, or after landing therefrom, shall upon being questioned by any officer of the customs whether he has any foreign goods upon his person or in his possession, deny the same, and any such goods shall, after such denial, be discovered upon his person or in his possession, such goods shall be forfeited, and such person shall forfeit treble the value of such goods.

Recovery of penalties.

115 All penalties and forfeitures which shall be incurred under this Ordinance shall and may be sued for and recovered in the name of the Attorney-General in the respective courts of this island, in like manner as other revenue cases : Provided, however, that in case of any person committing an offence or act under this Ordinance, and which offence or act could not otherwise be cognizable by a police court by reason of the punishment to which the same is subject, it shall be competent for the police court,

Digitized by Google

upon a certificate being presented to such court, signed by the Attorney-General or by some competent Crown counsel, that such officer is content that such offence or act shall be prosecuted before such court, to take cognizance of such offence or act, and to award in respect thereof so much of the punishment assigned thereto as police courts are empowered by law to award.

116 In any information or other proceeding for any offence against this Ordinance the averment that such offence was committed within the limits of any port shall be sufficient, without proof of such limits, unless the contrary be proved.

Averment of offence.

117 When any penalty is imposed upon any person committing or concerned in the act by which such penalty is incurred, and such offence shall have been committed by several persons jointly, or several persons shall have been concerned in the same, such several persons shall jointly and severally incur every such penalty; and it shall be lawful to proceed against such persons to recover such penalty, jointly by one information, or severally by separate informations, as the Attorney-General may deem expedient.

Several persons concerned in the same offence jointly and severally liable to the penalty, and may be sued either by one or by separate informations.

118 If any goods shall be seized for non-payment of duties or any other cause of forfeiture, and any dispute shall arise whether the duties have been paid for the same, or whether the same have been lawfully imported, or lawfully laden or exported, the proof thereof shall lie on the owner or claimer of such goods, and not on the Attorney-General or the officer who shall seize or stop the same.

Onus probandi to be on the party.

119 All forfeitures and penalties recovered under this Ordinance shall be paid into the hands of the collector of customs at the port or place where or nearest to which the same shall have been recovered, and shall be divided, paid, and applied (after deducting any expenses incurred) as follows, that is to say, one moiety to the Colonial Treasurer, for the purpose of the general revenue of the island, and the other moiety to the seizing officer, or informer, or both, in such manner as the collector may direct.

Application of penalties.

120 All ships, boats, goods, and other things which shall have been or shall hereafter be seized as forfeited under this Ordinance, shall be deemed and taken to be condemned, and may be dealt with in the manner directed by law in respect to ships, boats, goods, and other things seized and condemned for breach of such Ordinance, unless the person from whom such ships, boats, goods, and other things shall have been seized, or the owner of them, or some person authorized by him, shall, within one month from the date of seizure of the same, give notice in writing to the collector or other chief officer of customs at the nearest port that he intends to enter a claim to the ship, boat, goods, or other things seized as aforesaid, and shall further give security to prosecute such claim before the court having jurisdiction to entertain the same, and to restore the things seized or their

Seized goods, if unclaimed for a month, to be condemned and dealt with accordingly.

Digitized by Google

Seized goods may be given up on security being given.

[§ *10, 1 of 1871*]

value, and otherwise to satisfy the judgment of the court and to pay costs. On such notice and security being given in such sum as the collector or proper officer of customs at the port where or nearest to which the seizure was made shall consider sufficient, the ship, boat, goods, or other things seized shall, if required, be delivered up to the claimant; but if proceedings for the recovery of the ship, boat, goods, or other things so claimed be not instituted in the proper court within *thirty* days from the date of notice and security as aforesaid, the ship, boat, goods, or other things seized shall be deemed to be forfeited, and shall be dealt with accordingly by the collector or other proper officer of customs.

Claim to thing seized to be entered in the name of the owner.

121 No claim to anything seized under this Ordinance shall be admitted by such court, unless such claim be entered in the name of the owner, with his residence and occupation, nor unless oath to the property in such thing be made by the owner, or by his attorney or agent, by whom such claim shall be entered, to the best of his knowledge and belief, nor unless the claimant shall at the time of filing his libel or plaint to establish his claim satisfy the court that he has given notice and security as in the preceding section enacted.

Fifteen days' notice to be given to officers.

122 No summons shall be sued out against, nor a copy of any process served upon, any officer of the customs or other person as aforesaid, for anything done in the exercise of his office, until fifteen days after notice in writing shall have been delivered to him, or left at his usual place of abode, by the party who intends to sue out such summons or process, his attorney or agent, in which notice shall be clearly and explicitly stated the cause of the action, the name and place of the abode of the person who is to bring such action, and the name and place of abode of the attorney or agent; and no evidence of the cause of such action shall be produced except of such as shall be stated in such notice; and no judgment shall be given for the plaintiff unless he shall prove on the trial that such notice was given; and in default of such proof the defendant shall receive in such action a judgment and costs.

Actions to be brought within two months of the cause of them.

123 Every such action as in the last section referred to shall be brought within two months after the cause thereof, and shall be laid and tried in the district where the facts were committed; and if the plaintiff shall become non-suited, or shall discontinue the action, or if judgment shall be given against the plaintiff, the defendant shall receive the costs of suit.

Officer may tender amends.

124 It shall be lawful for such officer or other person as aforesaid, within one month after such notice, to tender amends to the party complaining, or to his agent, and to plead such tender in bar to any action, together with other pleas; and if the court shall find the amends sufficient, it shall give judgment for the defendant; and in such case, or in case the plaintiff shall become non-suited, or shall

Digitized by Google

discontinue his action, or judgment shall be given for the defendant, such defendant shall be entitled to costs as in the preceding section mentioned: Provided always that it shall be lawful for such defendant, by leave of the court where such action shall be brought at any time before issue joined, to pay money into court as in other actions.

125 In case any information shall be brought to trial on account of any seizure made under this Ordinance, and a judgment shall be given for the claimant thereof, and the court before which the cause shall have been tried shall certify on the record that there was probable cause of seizure, the claimant shall not be entitled to any costs of suit, nor shall the person who made such seizure be liable to any action or prosecution on account of such seizure; and if any action shall be brought to trial against any person on account of such seizure, wherein a judgment shall be given against the defendant, if the court before which such information shall have been tried shall have certified on the said record that there was a probable cause for such seizure, the plaintiff shall only be entitled to a judgment for the things seized, or the value thereof, and not to any damages, nor to any costs of suit.

Judge may certify probable cause of seizure.

126 All actions or prosecutions for the recovery of any of the penalties or forfeitures imposed by this Ordinance may be commenced or prosecuted at any time within three years after the offence committed by reason whereof such penalty or forfeiture shall be incurred, any law, usage, or custom to the contrary notwithstanding.

Limitation of suits.

127 All persons employed for the protection of the revenue under the direction of the Governor or of the collector shall be deemed and taken to be duly employed for the protection of the revenue; and the averment in any information that such person was so duly employed shall be sufficient proof thereof, unless the defendant in such information shall prove to the contrary.

Persons employed for the protection of the revenue to be deemed to be duly employed.

128 All ships and boats, and all goods whatsoever, which shall have been seized and condemned for a breach of this Ordinance, shall be disposed of as soon as conveniently may be after the condemnation thereof, in such manner as the collector or other proper officer of customs shall direct: Provided that all horses, cattle, or goods of a perishable nature may be sold forthwith.

Vessels and goods seized and condemned may be disposed of as the collector, &c., shall direct.

129 In all cases in which under this Ordinance any ships, boats, conveyances, goods, or other things have become liable to forfeiture, or shall have been forfeited, and in all cases in which the master or any person in charge of a ship, or employed in landing or shipping goods, or passing them through the custom house, shall have become liable to any penalty, it shall be lawful for the collector, should he deem such forfeiture or penalty unduly severe, to mitigate the same; but all cases so determined by the collector shall nevertheless be liable to revision by the Governor.

Collector in certain cases may mitigate forfeiture or penalty.

Digitized by Google

Customs.

Restoration of seized goods, ships, &c.

130 In case any goods, ships, or boats shall be seized as forfeited, or detained as undervalued, by virtue of this Ordinance, it shall be lawful for the Governor to order the same to be restored in such manner and on such terms and conditions as he shall think fit to direct; and if the proprietor of the same shall accept the terms and conditions prescribed by the Governor, he shall not have or maintain any action for recompense or damage on account of such seizure or detention; and the person making such seizure shall not proceed in any manner for the purpose of obtaining the condemnation thereof.

The Governor may restore seizures, and mitigate or remit punishments and penalties.

131 The Governor may, by any order made for that purpose, direct any ship, boat, goods, or other commodities whatever, seized under this Ordinance, to be delivered to the proprietor thereof, whether condemnation shall have taken place or not, and may also mitigate or remit any penalty or fine or any part of any penalty or fine incurred under this Ordinance, or may release from confinement any person committed under this Ordinance, on such terms and conditions as to him shall appear to be proper: Provided always that no person shall be entitled to the benefit of any order for such delivery, mitigation, remission, or release, unless such terms and conditions are fully and effectually complied with.

Commencement of Ordinance.

132 This Ordinance shall come into operation on such day as shall be named by the Governor in a Proclamation to be by him for that purpose issued.*

SCHEDULE.

A.

Ordinances to be repealed.

Date of Ordinance.	Title of Ordinance.	Extent of Repeal.
18 of 1852...	To consolidate and amend the law relating to the Customs.	The whole Ordinance
9 of 1853...	To amend in certain respects the Ordinance 18 of 1852, and to permit the exportation of Cinnamon Plants and Seeds ...	do.
14 of 1857...	To provide for the importation of Salt into the Island on payment of fixed duty ...	do.
2 of 1859...	To exempt certain Articles of Machinery from duty	do.
7 of 1861...	To make provision for the stowage of goods in the Customs Warehouse ...	do.
3 of 1862...	For exempting Paper from duties of Customs	do.
5 of 1862...	To prohibit when required the exportation and carriage coastwise of Military and Naval Stores	do.

For B, C, D, see section 4 and schedules B, C, D of No. 20 of 1898.

17th December, 1869.

* Proclaimed the 1st day of January, 1870.

Digitized by Google

No. 1 of 1871.

An Ordinance to amend the Customs Ordinance, No. 17 of 1869, and to provide for the issue of Warehouse Warrants.

(*As amended by No. 1 of 1875.*)

WHEREAS it is expedient to amend the Ordinance No. 17 of 1869, entitled "An Ordinance for the General Regulation of Customs in the Island of Ceylon," and to provide for the issue of warehouse warrants: It is therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1 The collector of customs may, upon an application in writing by the owner, importer, or consignee of any goods duly warehoused in any Queen's warehouse, or other place of deposit provided by Government, issue to such owner, importer, or consignee, warrants under his hand substantially in the form to this Ordinance annexed. Collector may issue warrants.

2 Such warrants shall be transferable once or oftener by the endorsement of the owner, importer, or consignee of the goods or of the holders of the said warrants, and the right and title to the goods enumerated in such warrants shall vest in the possessors thereof without any endorsement save that of the original grantee. The collector shall, upon production and surrender of such warrants, but not otherwise, deliver the goods to the holders of the warrants, on due entry of the goods for home consumption or exportation, and upon payment of all duties and charges due on the said goods. Goods transferable by endorsement and deliverable to the holders of warrants.

3 It shall be lawful for the keeper of any bonded warehouse to issue to the owner, importer, or consignee of any goods duly warehoused in his bonded warehouse, warrants substantially in the form to this Ordinance annexed. Such warrants shall be transferable, once or oftener, by the endorsement of the owner, importer, or consignee of the goods, or of the holders of the said warrants; and the right and title to the goods enumerated in such warrants shall vest in the possessors thereof without any endorsement save that of the original grantee. The keeper of such warehouse shall, upon production and surrender of such warrants, but not otherwise, deliver the goods to the holders of the warrants on due entry of the goods for home consumption or exportation, and upon payment of all duties and charges due on the said goods. Provided that it shall not be lawful for the keeper of any bonded warehouse to issue warrants for goods in which he has any share or interest as owner, importer, or consignee. Warrants by private warehouse keepers.

4 Repealed by No. 1 of 1875.

5 Provided that the holder of any warrant issued by the collector of customs shall have no claim on the Crown to compensation for loss of any goods by fire, theft, damage, or other cause, except such loss be caused by the wilful embezzlement, waste, spoil, or destruction on the part of any officer of customs, and such officer shall have been prosecuted to conviction within one year from the date of such wilful embezzlement, waste, spoil, or destruction. The holder of a warrant issued by a bonded warehouse keeper shall have no claim on the Crown to compensation on any ground or pretext whatsoever. Crown when liable to make compensation for loss in any Queen's warehouse. Crown not liable for loss in any bonded warehouse.

6 Provided further, that the collector of customs shall be in no way answerable for the correctness of the particulars of the contents or value of the goods specified in any warrant issued as aforesaid, and that the said goods shall be in every respect liable to the provisions of the laws and regulations relating to the customs in force at the time such goods shall be in deposit at the Queen's warehouse or other place of deposit provided by Government. Goods otherwise liable to customs laws and regulations.

7 Any keeper of a bonded warehouse who shall fraudulently issue a warrant for goods not in his warehouse, or who shall fraudulently issue two or more warrants for the same goods, or who shall fraudulently issue warrants for goods in which he has any share or interest as owner, importer, or consignee, or who shall aid and assist any other Penalties.

Digitized by Google

person to do so, and any keeper of such warehouse or other person who shall in any way use any warrant granted under the provisions of this Ordinance for the purposes of defrauding or injuring any person, company, or corporation, shall be guilty of an offence, and be liable to imprisonment with or without hard labour not exceeding three years, and in addition thereto, at the discretion of the judge, to a fine not exceeding one hundred pounds.

Governor to make regulations for certain purposes.

8 It shall be lawful for the Governor, with the advice of the Executive Council, from time to time to make regulations as to him shall appear expedient for any of the following purposes:

(1) For preventing accidents by fire, and as to the lighting or using of candles, fires, and lamps, and as to the smoking of tobacco or herbs within the customs premises;

(2) For governing and regulating porters, coolies, cartmen, and others carrying goods or using or driving horses, mules, bullocks, trucks, carts, sledges, or other carriages within the customs premises;

(3) For preventing damage being done to any goods.

And such regulations shall be published in the *Government Gazette*, and shall have the force of law. Any person who shall disobey the same shall be guilty of an offence, and be liable to a fine not exceeding five pounds.

Goods of dangerous quality.

9 If the owner, consignee, or person having charge of any tar, pitch, spirituous liquor, turpentine, oil, aqua fortis, lucifer matches, or any other article of a combustible or dangerous nature whatsoever, shall suffer the same to remain in the customs premises beyond the space of five hours after he shall have been required by any officer of customs to remove the same therefrom, then and in every such case every person so offending shall for every such offence be liable to a fine not exceeding five pounds, and not less than one pound for every hour that any of the said articles or goods shall be or remain in the place aforesaid after the expiration of the said five hours.

Time for instituting claims under 120th section of Ordinance 17 of 1869 extended to one month.

10 The time given for the institution of proceedings in court by the 120th section of the said Ordinance No. 17 of 1869 is hereby extended from fifteen to thirty days from the date of the notice and security required by the said section.

Ordinance 17 of 1869 and this Ordinance to be deemed one.

11 This Ordinance and the Ordinance No. 17 of 1869 shall be read and construed as if they formed one Ordinance.

Commencement of Ordinance.

12 This Ordinance shall come into operation on such day as shall be appointed by the Governor by Proclamation in the *Government Gazette.**

SCHEDULE A.

No. of Warrant ——.
No. of Bonded Entry ——.
Date ——.
Ship ——.
Master ——.
From ——.
Entered by ——.
Marks and Nos. ——.

Warehoused at ——.
Rent begins ——.

Deliver the within to *C. D.*
11th January, 1871.

Warrant No. ——.

No. of Bonded Entry and Date ——.
Ledger ——. Fol. ——. Warehoused at ——.
WARRANT for ——, imported in the ——.
—— Master, from ——.
Entered by ——. Date ——.
Deliverable to ——.
Or to any possessor of this Warrant without any endorsement, save that of the said ——.
Rent commences —— and all other charges ——.

[*Five Cents Stamp.*]

Examination.

C. D. *A. B.*

* Proclaimed the 1st day of August, 1871.

Digitized by Google

No. 1 of 1875.

An Ordinance to amend the Law as to Warehouse Warrants.

WHEREAS it is expedient to amend the Ordinance No. 1 of 1871, entitled "An Ordinance to amend the Customs Ordinance, No. 17 of 1869, and to provide for the issue of Warehouse Warrants:" It is therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows: — Preamble.

1 No goods warehoused in any Queen's warehouse or other place of deposit provided by Government, or in any bonded warehouse, shall be delivered out of such Queen's warehouse or other place of deposit provided by Government, or bonded warehouse, except upon surrender of the warrant in which such goods are enumerated, to the collector of customs or to the keeper of such bonded warehouse, as the case may be; every such warrant, after being so surrendered, shall be defaced, and no such warrant, after being so surrendered, shall be re-issued. — No goods warehoused in Government or bonded warehouses to be delivered, save on surrender of the warrant, and no warrant once surrendered to be re-issued.

Provided that whenever the holder or holders of any warrant issued under the 1st or 3rd sections of the Ordinance No. 1 of 1871, or under this present provision, shall be desirous of obtaining delivery of a part only of the goods enumerated in such warrant, it shall be lawful for the collector of customs or keeper of the bonded warehouse, as the case may be, upon the surrender of such warrant, to issue to the holder or holders by whom the same was surrendered a new warrant in respect of the goods remaining undelivered. — But where partial delivery taken, a new warrant may be issued in respect of the goods remaining undelivered.

2 Any person who shall deliver any goods warehoused as mentioned in the first section of this Ordinance, out of the place in which the same shall have been so warehoused, except upon the surrender, as therein mentioned, of the warrant in which such goods are enumerated, and any person who shall re-issue any warrant surrendered as aforesaid, shall be deemed guilty of an offence, and liable on conviction to a fine not exceeding fifty rupees. — Penalty on infringement of section 1.

3 The fourth section of the Ordinance No. 1 of 1871 is hereby repealed, and in lieu thereof it is hereby enacted as follows: — Stamp duty on warrants altered to five cents. [*See No. 3 of 1890.*]

> Every warrant, whether issued by a collector of customs or by the keeper of a bonded warehouse, shall bear a stamp duty of five cents, and such duty shall be denoted by adhesive stamps to be provided by the Commissioner of Stamps for that purpose, and to be affixed to such warrants. And such warrants shall be liable, in all matters relating to stamp duty, to the provisions of the Ordinances relating to stamp duties, so far as the same shall be applicable thereto.

4 The power of making regulations created by the 8th section of the Ordinance No. 1 of 1871 shall be deemed to extend to the making from time to time of regulations prescribing new forms for the warrants mentioned in this Ordinance and the Ordinance No. 1 of 1871, and the manner in which such warrants are to be defaced as hereinbefore mentioned. — Power to make regulations as to form of warrants and manner of defacing.

5 This Ordinance and the Ordinances No. 17 of 1869 and No. 1 of 1871 shall be read and construed as if they formed one Ordinance. — This Ordinance and the Ordinances No. 17 of 1869 and No. 1 of 1871 to be deemed one.

6 This Ordinance shall come into operation on such day as shall be appointed by the Governor by Proclamation in the *Government Gazette*.* — Commencement of Ordinance.

6th January, 1875.

No. 12 of 1884.

An Ordinance to provide against Petty Thefts in the Harbours and Wharves of the Ports of this Colony.

WHEREAS it is expedient to provide against petty thefts and the fraudulent removal and concealment of property during the loading, transit, and landing of goods from the ship's side to the — Preamble.

* Proclaimed the 1st day of February, 1875.

Digitized by Google

wharves and quays of the ports of this colony : Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows :

This Ordinance to be read and construed with Ordinance No. 17 of 1869.

1 This Ordinance shall be read and construed as one with the Ordinance No. 17 of 1869, intituled "An Ordinance for the General Regulation of Customs in the Island of Ceylon," hereinafter called "the principal Ordinance."

Goods not specified in boat-note when found concealed in any boat to be presumed to have been stolen or unlawfully received by tindal and boatmen of such boat.

2 Whenever goods not specified in the boat-note mentioned in the 31st section of the principal Ordinance have been concealed in any boat during the loading, transit, or unloading of such boat in any harbour or port of this colony, the discovery of such goods on board such boat shall be received in all courts of this colony as *primâ facie* evidence that the goods have been either stolen by the tindal and boatmen employed in such boat or that the same have been unlawfully received on board by the tindal and boatmen employed on such boat with knowledge that the same have been stolen ; and shall be conclusive thereof unless and until such tindal and boatmen or any of them shall satisfactorily account for the presence of such goods on board such boat.

Goods not mentioned in boat-note when found in possession of any tindal or boatman when on board of boat or on wharves to be presumed to have been stolen.

3 Whenever goods not specified in the boat-note mentioned in the 31st section of the principal Ordinance shall be found in the possession of any tindal or boatman when on board the boat in which he is employed, or when on the quays or wharves of any port or harbour of this colony, such tindal or boatman, in whose possession such goods are found, shall be presumed to have stolen the goods or to have unlawfully received the same knowing them to have been stolen ; unless and until such tindal or boatman shall satisfactorily account for his possession thereof.

Nothing in this Ordinance to affect any forfeiture, &c., incurred by tindal or boatman under Ordinance No. 17 of 1869.

4 Nothing in this Ordinance contained shall affect any forfeiture, penalty, or liability incurred by any tindal or boatman or by any other person whomsoever under the principal Ordinance in respect of such goods as are referred to by this Ordinance or in respect of the boat.

14th February, 1884.

No. 11 of 1891.

An Ordinance to re-adjust the Customs Duties leviable on Firearms, and to impose an Export Duty on certain Hides and Horns.

(*As amended by No. 20 of 1898.*)

Preamble.

WHEREAS it is expedient to re-adjust the customs duties leviable under Ordinances Nos. 17 of 1869, 14 of 1871, and 39 of 1884, respectively, on certain articles imported into this colony, and to levy duties on certain articles heretofore exempt from duty when exported therefrom : Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows :

To be read with Ordinances Nos. 17 of 1869, 14 of 1871, and 39 of 1884.

1 This Ordinance and the schedule hereto annexed, so far as they are consistent therewith, shall be construed and read as one with the Ordinances Nos. 17 of 1869, 14 of 1871, and 39 of 1884.*

2 Repealed by No. 20 of 1898.

Duty to be levied on hides and horns of spotted deer and sambur.

3 From and after the time when this Ordinance shall come into operation it shall be lawful for the Governor, with the advice of the Executive Council, from time to time by Proclamation in the *Government Gazette*, to impose a duty, and the same from time to time to increase or reduce, not exceeding twelve rupees per hundredweight on all hides and fourteen rupees per hundredweight on all horns, respectively, of spotted deer and sambur when exported from this

* No. 14 of 1871 and No. 39 of 1884 are repealed by No. 20 of 1898.

Digitized by Google

colony, anything in the said Ordinances Nos. 17 of 1869 and 14 of 1871 to the contrary notwithstanding. Such duty shall be collected and received by the proper officers of the Customs Department; and the payment thereof shall be enforced under the provisions of the said Ordinances.

4 The Governor may, with the advice and consent of the Executive Council, by Proclamation to be published in the *Government Gazette*, from time to time prohibit the exportation of any or all of the articles mentioned in section 3, during such period or periods of time as may seem expedient, and any such Proclamation in like manner may alter, amend, or revoke, and it shall be unlawful for any person or persons after such Proclamation during any such period or periods to export any of the articles specified therein, and any person or persons exporting or attempting to export any such articles during any such period or periods shall be guilty of an offence, and shall be liable on conviction to simple or rigorous imprisonment for a term which may extend to six months, or to a fine not exceeding one hundred rupees, or to both.

Governor may prohibit exportation of articles mentioned in section 3 for specified periods.

Penalty for exporting during prohibited periods.

5 This Ordinance shall come into operation at such time as the Governor shall, by Proclamation to be published in the *Government Gazette*, appoint.*

Operation.

18th November, 1891.

No. 17 of 1892.

An Ordinance to exempt from Customs Duty official supplies consigned to certain Consular Officers of Foreign Countries.

WHEREAS Her Majesty's consular officers in the United States of America enjoy the privilege of exemptions from customs duties in respect of official goods imported for the use of their consulates, and it is expedient that a corresponding privilege should be granted to the United States consular officer in this colony, and that provision should be made for extending a like exemption to the consular officers of any other foreign countries where now or at any future time a similar treatment may be accorded to British consular officers: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Preamble.

1 From and after the coming into operation of this Ordinance, the following shall not be liable to payment of customs duty:

Exemptions from customs duty.

(*a*) All articles officially supplied to the United States consular officer in this colony by his Government for the use of his consulate.

(*b*) All articles supplied in the like manner and for the like use to the consular officer of such other foreign country as the Governor may from time to time name in a notification published in the *Government Gazette*.

2 All articles consigned to any consular officer to whom this Ordinance applies shall be passed duty free on such officer delivering to the collector of customs a list of the articles, and certifying at the foot thereof that they are *bonâ fide* official supplies sent to him for the use of his consulate by his Government. Provided that all such articles shall, in case of the sale thereof after importation, be liable to and be charged with such and the same duties of customs as are ordinarily payable or charged on the like articles, and the officer in whose charge

Exemptions how obtained.

Certificate of consignee.

* Proclaimed the 1st day of January, 1892.

Digitized by Google

such articles may be shall furnish the collector of customs with the particulars of the sale thereof, and out of the proceeds of the same pay to the said collector the duties which may be due thereon.

Governor may cancel exemptions.

3 It shall be lawful for the Governor, by notification published in the *Government Gazette*, to cancel any previous notification under section 1, in which case this Ordinance shall cease to apply to the consular officer of such foreign country as may have been named in such cancelled notification.

21st November, 1892.

No. 20 of 1892.

An Ordinance for exempting from Customs Duty certain articles imported or purchased for the use of Her Majesty's Naval and Military Forces.

(*As amended by No. 22 of 1896.*)

Preamble.

WHEREAS it is expedient to provide for exempting from customs duty certain articles imported or purchased for the use of Her Majesty's naval and military forces and for paying a rebate of such duty: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Articles exempted from customs duty.

1 From and after the first day of January, 1893, the following articles shall be exempted from payment of customs duty:

(*a*) Articles of every description imported or supplied by sea or inland carriage or navigation for the public use of Her Majesty's regular military and naval forces, and all articles sold for the public use of Her Majesty's regular military and naval forces, though not directly imported for that purpose;

(*b*) All wines, spirits, and stores which are imported or purchased or procured locally for the use of the Naval Commander-in-Chief when residing in the colony, or which are supplied from Her Majesty's dockyard at Trincomalee for the use of his servants and of the sailors on duty at his place of residence;

(*c*) Articles, clothing, and materials for clothing imported for the use in athletic sports and games of Her Majesty's regular [military or*] naval forces in Ceylon;

[* *Repealed by No. 22 of 1896*]

(*d*) Articles imported, purchased, or procured for the use of any canteen of Her Majesty's regular [military or*] naval forces in Ceylon.

Certificate from naval or military officer required for exemption or payment of rebate.

2 (1) Upon the production of a certificate from such naval or military officer as the Governor may from to time authorize by notification in the *Government Gazette* to issue the same, the collector of customs shall pass free from duty the articles hereinbefore exempted, or, in the event of the duty having been paid, he shall allow a rebate of such duty.

Proviso.

Provided that if such articles shall not be required for the use for which they were imported or purchased as aforesaid, and shall be sold, the same shall be liable to and be charged with such and the same duties of customs as may by law be payable or charged on the like articles; and the officer in whose charge such articles may be shall furnish the collector of customs with the particulars of the sale thereof, and out of the proceeds of the same pay to the said collector the duties which may be due thereon.

Rebate.

(2) The rebate shall be paid out of the duties received by the collector of customs, anything in section 16 of the Ordinance No. 17 of 1869 to the contrary notwithstanding.

Digitized by Google

(3) The certificate required by this section shall be in such form as the Principal Collector of Customs shall from time to time prescribe. Form of certificate.

3 The Ordinance No. 5 of 1884, intituled "The Customs Duties Amendment Ordinance of 1884," is hereby repealed. Repeal.

5th December, 1892.

No. 4 of 1894.

An Ordinance to provide for the continuance of the Export Duty on Tea levied under Ordinance No. 15 of 1892.

Preamble.

WHEREAS it is expedient to provide for the continuance of the export duty on tea levied under the Ordinance No. 15 of 1892, after the expenses of the World's Columbian Exposition at Chicago shall have been paid and discharged, in order that the proceeds of such duty may be devoted to increasing the consumption of Ceylon tea in foreign lands: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Commencement of levy of export duty, and rate of duty.

1 So soon after the Ordinance No. 15 of 1892, intituled "An Ordinance to levy an Export Duty on Tea," shall have ceased to be in force,* there shall be raised, levied, and paid upon all tea of the produce of this island exported beyond seas a duty not exceeding twenty cents per one hundred pounds, the rate leviable to be determined by the Governor in Executive Council from time to time, upon consideration of such recommendations as may be made by the joint committee appointed by the Planters' Association of Ceylon on the fifteenth of June, 1894, and by the Chamber of Commerce on the eighteenth of June, 1894, or the successors in office of such committee, to administer the funds raised under this Ordinance, and such duty shall be independent of, and in addition to, any duty which may be imposed under the provisions of "The Medical Wants Ordinance, 1880, Amendment Ordinance, 1882."

Levy of export duty to be enforced under Ordinance No. 17 of 1869.

2 The duty under this Ordinance shall be levied at the customs on the entry for exportation of tea, and shall be payable to, and shall be collected and received by, the proper officers of the customs department, and the payment thereof shall be enforced under the provisions of the Ordinance No. 17 of 1869, intituled "An Ordinance for the General Regulation of Customs in the Island of Ceylon."

Proceeds of duty how to be applied.

3 The proceeds of the levy hereby enacted shall be applied towards increasing the consumption of Ceylon tea in foreign lands in such manner as may from time to time be desired and determined by the joint committee appointed for the purpose by the Planters' Association of Ceylon on the fifteenth of June, 1894, and by the Ceylon Chamber of Commerce on the eighteenth of June, 1894, or the successors in office of such committee, provided that such manner of application of the proceeds of the said levy be subject to the approval of the Governor in Executive Council.

Duration of the Ordinance.

4 This Ordinance shall cease to be in force from and after such time as the Governor in Executive Council shall appoint by Proclamation to be published in the *Government Gazette*.

29th August, 1894.

---

* No. 15 of 1892 ceased to be in force on the 31st October, 1894.

Digitized by Google

No. 18 of 1896.

An Ordinance to amend Ordinance No. 17 of 1869, intituled "An Ordinance for the General Regulation of Customs in the Island of Ceylon."

Preamble.

WHEREAS it is expedient to amend the Ordinance No. 17 of 1869, intituled "An Ordinance for the General Regulation of Customs in the Island of Ceylon:" Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

This Ordinance and No. 17 of 1869 to be read as one Ordinance.

1 This Ordinance and No. 17 of 1869 shall be read and construed as one Ordinance.

Definition of "true wholesale market value."

2 For the purposes of the Ordinance No. 17 of 1869 the term "true wholesale market value" shall mean—

(*a*) The wholesale cost price, less trade discount, for which goods of the like kind and quality are sold, or are capable of being sold, at the time and place of importation without any abatement or deduction whatever except of the amount of the duties payable on the importation thereof; or

(*b*) Where such price is not ascertainable, the cost at which goods of the like kind and quality could be delivered at such place without any abatement or deduction except of the duties as aforesaid.

14th December, 1896.

No. 22 of 1896.

An Ordinance to amend the Ordinance No. 20 of 1892, intituled "An Ordinance for exempting from Customs Duty certain Articles imported or purchased for the use of Her Majesty's Naval and Military Forces."

Preamble.

WHEREAS it is expedient to amend the Ordinance No. 20 of 1892, intituled "An Ordinance for exempting from Customs Duty certain Articles imported or purchased for the use of Her Majesty's Naval and Military Forces:" Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Repeal of Ordinance No. 20 of 1892 so far as it applies to military forces.

Saving clause.

1 On and from the date on which this Ordinance comes into operation, sub-sections (*c*) and (*d*) of section 1 of the Ordinance No. 20 of 1892, intituled "An Ordinance for exempting from Customs Duty certain Articles imported or purchased for the use of Her Majesty's Naval and Military Forces," in so far as it relates to Her Majesty's regular military forces, shall be repealed: but such repeal shall not affect—

(*a*) The past operation of the sub-sections hereby repealed, nor anything duly done or suffered thereunder; or

(*b*) Any right, privilege, obligation, or liability acquired, accrued, or incurred thereunder.

A sum not exceeding twenty-five thousand rupees annually to be paid out of the revenue as commutation allowance.

2 The Governor, with the advice of the Executive Council, may authorize the payment annually of a sum not exceeding twenty-five thousand rupees from the revenue of this Colony to be applied towards the payment to the several officers, warrant officers, sergeants, and rank and file mentioned in the first column of the schedule hereto, at the monthly rate or commutation allowance specified in the second column of the said schedule, or to be applied in such manner as the Secretary of State for War may determine.

Digitized by Google

Customs.

3 The sum or amount not exceeding twenty-five thousand rupees to be paid under the preceding section shall be deemed to be a fixed commutation, payable by the colony, in lieu of the exemption from or rebate of customs duty on articles of every description imported, purchased, or procured for the use of Her Majesty's regular military forces other than those imported, purchased, or procured for the public use of such forces. And to be a fixed commutation.

4 Nothing herein contained shall affect the exemption from or rebate of customs duty enacted by sub-sections (*c*) and (*d*) of section 1 in respect of Her Majesty's naval forces. This Ordinance not to affect exemption in favour of naval forces.

5 This Ordinance shall come into operation on such date as the Governor shall, by Proclamation to be published in the *Government Gazette*, appoint.* Date of operation.

SCHEDULE.

Persons.	Rate per Mensem. Rs. c.
Officers	6 50
Warrant officers	4 0
Sergeants	2 50
Rank and file of Royal Artillery and Royal Engineers	1 50
Rank and file of the line	1 0

16th December, 1896.

No. 7 of 1898.

An Ordinance to impose an Export Duty on Arrack.

WHEREAS it is expedient to levy a duty on arrack distilled in this colony and exported therefrom : Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows : Preamble.

1 For the purposes of this Ordinance, unless the context otherwise requires— Interpretation clause.

"Arrack" shall include all spirits distilled from the produce of the cocoanut or other description of palm.

2 There shall be levied and paid on all arrack distilled in this island when exported therefrom a duty of one rupee and twenty-five cents per gallon of the strength of proof by Sikes' hydrometer, and so in proportion for any greater or less strength than the strength of proof and for any greater or less quantity than a gallon. Export duty to be levied.

3 The duty leviable hereunder shall be levied at the customs on the entry for exportation of arrack, and shall be payable to and shall be collected and received by the proper officers of the Customs Department; and the payment thereof shall be enforced under the provisions of the Ordinance No. 17 of 1869, intituled "An Ordinance for the general regulation of Customs in the Island of Ceylon." Duty how to be levied.

16th March, 1898.

* Came into operation 1st January, 1897.

Digitized by Google

No. 20 of 1898.

An Ordinance to consolidate and re-adjust the Customs Duties leviable on Imports.

Preamble.

WHEREAS it is expedient to consolidate and re-adjust the Customs duties leviable on articles imported into this Island: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

To be read as one with Ordinance No. 17 of 1869.

1 This Ordinance may be cited as "The Customs Duties Amendment Ordinance, 1898," and shall be read as one with the Ordinance No. 17 of 1869.

Repeal.

2 There shall be repealed as from the commencement of this Ordinance the Ordinances specified in schedule A to this Ordinance, to the extent in the third column of that schedule mentioned.

Definition clause.

3 For the purposes of this Ordinance—

"Flashing point" shall mean "flashing point" as defined in Ordinance No. 6 of 1887, or in any Ordinance that may hereafter be subtituted therefor.

"Kerosine oil" shall include the liquids commonly known by the names of rock oil, Rangoon oil, Burma oil, kerosine, petroleum, paraffine oil, mineral oil, petroline, gasoline, benzol, benzoline, benzine, and any liquid that is made from petroleum, coal, schist, shale, peat, or any other bituminous substance, or from any products of petroleum, with a flashing point of less than 200° F.

New schedules of articles.

4 The schedules marked B, C, and D hereto annexed shall be substituted for those marked B, C, and D, respectively, annexed to the Ordinance No. 17 of 1869.

Rebate of duty on kerosine oil used in oil engines.

5 (1) A rebate shall be allowed by the Principal Collector of Customs of duty paid on kerosine oil used as the source of motive power in oil engines upon the production of such certificate and such evidence as may be prescribed by the regulations to be made by the Governor, with the advice of the Executive Council, under this Ordinance.

(2) The rebate shall be paid out of the duties received by the Principal Collector of Customs, anything in section 16 of the Ordinance No. 17 of 1869 to the contrary notwithstanding.

Regulations.

6 The Governor, with the advice of the Executive Council, may from time to time make, and when made revoke or vary, such regulations as may seem necessary or expedient in respect of the allowance of rebate, by the Principal Collector of Customs, of duty paid on kerosine oil which has been used as the source of motive power in oil engines.

Matters in respect of which regulations may be made.

7 (1) The regulations made under the last preceding section may provide amongst other things:

(*a*) For prescribing the nature and form of the certificate required by section 5.

(*b*) For prescribing the nature of the evidence to be produced in support of a claim for rebate.

(*c*) For inspecting any engine in which kerosine oil is used as the source of motive power, and in respect of which a claim for rebate under section 5 is made, and the premises in or upon which such engine is kept.

Digitized by Google

(*d*) For prescribing the times when and the periods for which payments of rebate shall be made.

(*e*) For the appointment of inspectors and other officers to carry out the provisions of any regulations made under this Ordinance, and for regulating their duties and conduct, and for investing them with all powers necessary for the due execution of their duties.

(2) Provided always that nothing in this section contained shall in any way restrict or be construed to restrict the generality of the powers conferred on the Governor by the last preceding section, but such powers shall extend to all matters, whether similar or not to those in this section mentioned, as to which it may be expedient to make regulations for the better carrying into effect of the objects of this Ordinance.

8 (1) If any person, without lawful authority or excuse (proof whereof shall lie on him), contravenes any regulation made under this Ordinance, or does or omits to do anything which under the provisions of any such regulations he ought not to do or omit, or if he obstructs or impedes or assists in obstructing or impeding any inspector or other officer appointed under this Ordinance in the execution of any provision of any such regulation, he shall be guilty of an offence against this Ordinance. Offence.

(2) Every prosecution for an offence against this Ordinance may be instituted in the police court of the division in which the offence was committed, and such court may impose the full penalties herein prescribed, anything in the Criminal Procedure Code or in any other Ordinance to the contrary notwithstanding.

9 (1) If any person is guilty of an offence against this Ordinance he shall be liable on conviction before a police magistrate to imprisonment of either description for a term not exceeding three months, or to a fine not exceeding one thousand rupees, or to both. Penalty.

(2) Nothing in this section contained shall affect the liability of any person to any punishment or penalty to which he is liable at common law or under any enactment other than this Ordinance, but so that a person shall not be punished twice for one and the same offence.

10 All regulations made under this Ordinance shall be published in the *Government Gazette*, and shall from the date of such publication have the same force as if they had been enacted in this Ordinance; provided that all such regulations shall be laid before the Legislative Council at the next meeting of such Council if then in session, and if not then in session then so soon as possible after the commencement of the next ensuing session; and if within two months of their being so laid before the Legislative Council any of such regulations be objected to by the Legislative Council, the said Council may by resolution annul any such regulations. Regulations to be published.

11 All materials which are used in making tea boxes, and which shall from time to time be specified in any Proclamation issued by the Governor, with the advice of the Executive Council, and published in the *Government Gazette*, may be imported into this island free of duty of Customs; and it shall be lawful for the Governor, with like advice, by further Proclamation in the *Government Gazette*, to revoke, alter, or amend any such Proclamation as aforesaid. Governor to specify by Proclamation what materials used in making tea boxes may pass free of Customs duty.

12 This Ordinance shall come into operation at such time as the Governor shall by Proclamation, to be published in the *Government Gazette*, appoint.° Commencement.

° Proclaimed the 1st day of January, 1899.

Digitized by Google

Customs.

SCHEDULE A.

Date of Ordinance.	Title of Ordinance.	Extent of Repeal.
14 of 1871	An Ordinance to adjust Customs Duties to the Currency of Rupees and Cents	The whole Ordinance
6 of 1875	The Colombo Harbour Ordinance, 1875	Section 8
2 of 1876	An Ordinance to amend Ordinance No. 6 of 1875	The whole Ordinance
39 of 1884	An Ordinance to re-adjust the Customs Duties leviable under Ordinances No. 17 of 1869 and No. 14 of 1871	The whole Ordinance
8 of 1885	An Ordinance to exempt certain Articles from the levy of Customs Duties	The whole Ordinance
16 of 1887	An Ordinance to exempt Materials used in making Tea Boxes from Duty of Customs	The whole Ordinance
11 of 1891	An Ordinance to re-adjust the Customs Duties leviable on Fire-arms, and to impose an Export Duty on certain Hides and Horns	Section 2
5 of 1892	An Ordinance to re-adjust the Customs Duties leviable on Tobacco, Kerosine Oil, and Spirits	The whole Ordinance
8 of 1894	An Ordinance to abolish the Import Duty on certain kinds of Metals	The whole Ordinance
9 of 1897	An Ordinance to increase the Duty on the import of Opium and to prohibit the importation of Bhang and Ganja into this Island	Sections 3 and 6
16 of 1897	An Ordinance to exempt from Customs Duty Frozen Meat, and to allow a rebate of such Duty on Kerosine Oil used in Oil Engines	The whole Ordinance

SCHEDULE B.

IMPORT DUTIES.

Articles.		Duty. Rs.	c.
Arms and ammunition, viz. :—			
Fowling-pieces, guns, and rifles, single-barrelled ...	each	5	0
Fowling-pieces, guns, and rifles, double-barrelled, and revolving or magazine	„	10	0
Gunpowder, fine	per lb.	0	25
Gunpowder, coarse, for blasting (which is incapable of being passed through a No. 10 standard mesh)	„	0	8
Pistols, single-barrelled	each	2	25
Pistols, double-barrelled, and revolvers ...	„	4	50
Shot	per cwt.	0	75
Asphalt (12½c. per cwt.)	per ton	2	50
Bacon, butter, cheese, and hams	per cwt.	3	0
Barley imported solely for brewing ...	„	0	33
Beef, pork, humps, tongues, salted or corned ...	„	1	25

Digitized by Google

Customs.

Articles.		Duty. Rs. c.
Beer, ale, porter, and all other malt liquors in wood...	per gallon	0 13
Do. do. in bottle...	„	0 17
Benjamin	per cwt.	1 50
Brassware	„	5 0
Camphor	„	6 50
Castor oil	„	1 20
Cement	„	0 17
Chillies	„	1 0
Cloves	„	1 25
Copperware	„	5 0
Coriander seed	„	0 60
Cotton goods, viz.:—		
Gray cambrics, Gray jaconets, Gray shirtings } on an assessed value of 55c. per lb., for every Rs. 100 of value thereof ...	—	4 0
Gray domestics, Gray long cloths, Gray mule twist, Nos. 30 to 60, Gray sheetings, Gray tea cloths } do. 45c. do. ...	—	4 0
Yarn, Turkey red { on an assessed value of 90c. per lb., gray weight, for every Rs. 100 of value thereof	—	4 0
Yarn, other colours do. 55c. do. ...	—	4 0
Other cotton goods, for every Rs. 100 of the value thereof	—	4 0
Cummin seed	per cwt.	1 15
Cutch	„	1 70
Dates	„	0 50
Fennel seed	„	0 75
Fish, dried or salted, roes, fins, skins, and blood, the produce of creatures living in the sea ...	„	0 50
Fish, Maldive (umbalakada)	„	1 0
Flour, wheat	„	1 0
Garlic	„	0 65
Ghee	„	2 50
Ginger, dry	„	0 80
Kerosine oil	per gallon	0 25
Mace	per cwt.	10 0
Mathe seed	„	0 55
Metals:—		
Brass, wire and nails	per cwt.	3 0
Copper, sheathing, bars, bolts, ingots, plates, nails, and tacks	„	3 0
Iron, corrugated (35c. per cwt.)	per ton	7 0
Iron, galvanized, viz., guttering, nails, piping, ridging, rivets, sheets, and sheets corrugated, spouting, strapping, screws, tiles, washers, wire (75c. per cwt.)	„	15 0
Iron nails and tacks of sorts, and rivets ...	per cwt.	0 63
Zinc, perforated	„	3 0
Onions	„	0 17
Opium	per lb.	2 0
Paddy	per cwt.	0 33
Pepper, long	„	3 0
Pepper, whole	„	1 50
Poonac	„	0 25
Potatoes	„	0 38

Digitized by Google

Customs.

Articles.		Duty. Rs. c.
Rice, wheat, gram, peas, beans, and other grain, except barley for brewing, and paddy ...	per cwt.	0 50
Salt	„	2 13
Sago	„	0 35
Saltpetre	„	0 50
Spirits (not being sweetened or mixed with any articles so that the degree or strength thereof cannot be ascertained by Syke's hydrometer), for every gallon of the strength of proof by such hydrometer, and so in proportion for any greater or less strength than the strength of proof, and for any greater or less quantity than a gallon, provided that in no case shall duty be less than at the rate of Rs. 5 per gallon :—		
Brandy	per gallon	6 0
Geneva	„	6 0
Gin	„	6 0
Rum	„	6 0
Whisky	„	6 0
Unenumerated	„	7 0
Other spirits, being sweetened or mixed so that the degree of strength cannot be ascertained as aforesaid, viz. :—		
Liquors and cordials	„	6 0
Unenumerated...	„	7 0
Soap other than perfumed and toilet ...	per cwt.	0 55
Sugar ... Candy and refined ...	„	3 0
Sugar ... Unrefined	„	1 75
Sugar ... Palm and jaggery ...	„	0 75
Tamarind	„	0 25
Tea	per lb.	0 25
Tobacco ... Cigars and snuff ...	„	1 50
Tobacco ... Manufactured ...	„	0 40
Tobacco ... Unmanufactured, and hooka	„	0 25
Turmeric	per cwt.	0 65
Twine	„	1 55
Wine ... Claret, in bottle ..	per gallon	1 25
Wine ... Still hock, in bottle ...	„	1 25
Wine ... Ginger, in wood or bottle ...	„	0 50
Wine ... Claret, in wood ...	„	0 50
Wine ... Still hock, in wood ...	„	0 50
Wine ... Sparkling wines in bottle ...	„	2 50
Wine ... Other wines, in bottle ...	„	1 50
Wine ... Wines in wood, except claret, still hock, and ginger ...	„	1 0
Cartridges, fuse, dynamite, detonators, percussion caps, and fireworks, for every Rs. 100 of the value thereof	—	20 0
All other goods, wares, merchandise, and machinery not otherwise charged with duty, or prohibited, and not comprised in the Table of Exemptions hereinafter set forth, for every Rs. 100 of the value thereof	—	5 50

Table of Exemptions.

Aërated water bottles	Free
Animals, viz., horses, mules, asses, neat cattle, and all other live stock	„
Arecanuts	„
Arrowroot...	„
Blotting paper	„

Digitized by Google

Customs.

Books and maps, printed	Free
Bricks and tiles and glass tiles	"
Bullion, coin, pearl oysters, pearls and precious stones, unset	"
Cardamoms	"
Cards, blank, Christmas, wedding, and birthday cards ...	"
Casks (empty), shooks, and staves	"
Castor seed poonac	"
Coal, coke, and patent fuel	"
Cocoanuts and cocoanut oil	"
Coffee	"
Coir yarn, rope, junks, fibre, twine, and strands ...	"
Copperah	"
Cotton wool	"
Cowries and shells (not tortoise-shell)	"
Dammar	"
Drawings and drawing materials	"
Drums, iron, for oil	"
Felt	"
Frozen or refrigerated meat	"
Fruit (fresh, and not in any way preserved) ...	"
Grindstones	"
Gunnies and gunny cloth and filter bagging ...	"
Hay and straw, cut or uncut	"
Hoop iron and hoop steel	"
Hops	"
Horns	"
Ice	"
Instruments, scientific, surgical, mathematical, &c. ...	"
Jute	"
Liquid fuel, the product of petroleum, with a flashing point not under 200° F.	"
Lime and clay	"
Printed music	"
Machinery, viz. :—	
Prime movers and component parts thereof, including boilers and component parts thereof ; also including locomotive and portable engines, steam rollers, fire engines, and other machines in which the prime mover is not separable from the operative parts ...	"
Machinery (and component parts thereof), meaning machines or sets of machines to be worked by electric, steam, water, fire, or other power, not being manual or animal labour, or which before being brought into use require to be fixed with reference to other moving parts, and which are intended for :	
(a) The preparing, ginning, pressing, spinning, weaving, sewing, knitting, bleaching, and dyeing of cotton, jute, hemp, silk, wool, or other fibres, and any other process intervening between the raw material and the finished product as packed ready for the market	"
(b) The smelting and milling of iron and other metallic ores, and the manufacture of iron, steel, and other metals	"
(c) The manufacture of leather, sugar, indigo, silk, paper, soap, gas, oil, flour, cordage, rope, and twine	"
(d) The milling of rice	"
(e) The drying and rolling of tea	"
(f) The pulping of coffee	"
(g) Printing presses	"
(h) Foundries and workshops of iron and other metals	"
(i) Railway workshops	"

Digitized by Google

Customs.

(*j*) The refining of petroleum and the manufacture of vegetable oils	Free
(*k*) The crushing of bones and bricks ...	"
(*l*) The manufacture of lac	"
(*m*) Potteries	"
(*n*) Sawmills	"
(*o*) Mining, navigation, agriculture, and pumping ...	"
(*p*) Such other manufactures and industries as the Governor in Executive Council may from time to time specify	"
Provided that the term does not include tools and implements to be worked by manual or animal labour, and provided also that only such articles shall be admitted as component parts of machinery as are indispensable for the working of the machinery and are, owing to their shape or to other special quality, not adapted for any other purpose.	
Note.—Machinery and component parts thereof made of substances other than metal are included in this entry.	
Manures of all sorts, and ingredients imported solely for the manufacture of manures, and certified as such by the importer	"
Manuscripts	"
All unwrought metals	"
T and channel bars, angles, plates, sheets, and rolled joists, iron or steel, but not galvanized iron	"
Brass sheets	"
Iron, angle, and Swedish bar	"
Iron, bar, flat, square, bolt or round, rod, and nail rod ...	"
Iron, pig	"
Iron, plates and sheets (not galvanized)	"
Lead, sheet, pipe, and pig	"
Tin and zinc, in cake or slab	"
Steel, blister	"
Steel, cast	"
Tin plates	"
Nets, fishermen's	"
Oil, the produce of creatures living in the sea ...	"
Olas	"
Orchilla weed	"
Palmirah fibre	"
Paper and envelopes, ruled and unruled, with or without printed heading	"
All exercise books and manuscript note books used for educational purposes	"
Paper for lining tea boxes	"
Passenger's baggage accompanying the passenger, viz., wearing apparel; used bicycles, photographic cameras, and sewing machines; and instruments intended for the professional use of passengers	"
Plants, trees, and seeds intended for agricultural and horticultural purposes	"
Plumbago	"
Printing materials	"
Printed labels	"
Prints and pictures, printed almanacs and show cards, and plates with their frames	"
Rattan	"
Resin	"
Regimental clothing, uniforms, necessaries, accoutrements, and band instruments imported for the use of Her Majesty's land and sea forces, including Volunteers ...	"

Digitized by Google

Customs.

Rifles for Volunteers	Free
Saltpetre, refuse of, for purposes of manure only, as certified by the importer	"
Screws for tea boxes	"
Seeds, cotton, castor, rape, poppy, niger, mustard, and bird	"
Senna leaves	"
Slates, roofing	"
Sheets, iron, tea boxes (imported in shooks) ...	"
Solder	"
Soldering fluid	"
Specimens and objects illustrative of natural history ...	"
Stones, ballast	"
Stones, coral	"
Stones, grinding	"
Stones, tomb, and tablets	"
Stones of sorts	"
Tallow and grease	"
Tanks, iron	"
Tea lead	"
Tea lead foil	"
Timber (not prepared)	"
Woods, dye, sandal, and of sorts	"
Wood, metal, paper, or other material, or any combination of wood or metal, or any other material imported in shooks or in rolls, or in any form in which they may be used in making tea boxes	"

SCHEDULE C.

TABLE OF PROHIBITIONS AND RESTRICTIONS INWARDS.

Ammunition, arms, gunpowder, and utensils of war by way of merchandise, except by license from Her Majesty for furnishing Her Majesty's public stores only, or under the directions of the Collector by authority of the Governor.

Books wherein the copyright shall be first subsisting, first composed, or written, or printed in the United Kingdom, and printed or reprinted in any other country, and of which notice that copyright subsists shall have been given by the proprietor to the Commissioners of Customs, London.

Coin, viz., false money, or counterfeit sterling coin of the realm, or any money purporting to be such, not being of the established standard in weight or fineness.

Dangerous subetances, viz., earth oil or mineral naphthas, fulminating powder, gun-cotton, nitro-glycerine, except by license of the Governor and under regulations to be made by the Governor, with the advice of the Executive Council, from time to time, for the safe landing and deposit thereof.

Indecent or obscene prints, paintings, books, cards, lithographs, photographs, engravings, or any other indecent or obscene articles.

Infected cattle, sheep, or other animals ; also hides, skins, horns, hoofs, or any part of cattle or other animals which the Governor may by Proclamation prohibit, in order to prevent contagious distemper.

Fish, grain, and other articles in a damaged, stinking, offensive condition, unfit for food and legitimate use, and likely to breed sickness or any contagious disorders.

Ganja and bhang, or any substance containing ganja or bhang.

Parts of articles, viz., any distinct or separate part of any article not accompanied by the other part, or all the other parts of such articles, so as to be complete or perfect, if such articles be subject to duty according to the value thereof.

Digitized by Google

Customs.

SCHEDULE D.

HARBOUR DUES.

I.—DUES LEVIABLE AT THE PORT OF COLOMBO.

Dues payable by Ships entering the Port.

	Rs.	c.		Rs.	c.
Up to 50 tons ...	2	50	Over 500 and up to 700 tons	50	0
Over 50 and up to 100 tons	5	0	„ 700 „ 900 „	60	0
„ 100 „ 150 „	7	50	„ 900 „ 1,100 „	70	0
„ 150 „ 200 „	10	0	„ 1,100 „ 1,300 „	80	0
„ 200 „ 300 „	20	0	„ 1,300 „ 1,500 „	90	0
„ 300 „ 400 „	30	0	„ 1,500 „ 1,800 „	100	0
„ 400 „ 500 „	40	0	„ 1,800 tons ...	120	0

These dues to clear a vessel inwards and outwards, providing her stay in the port does not exceed 96 hours.

If exceeding 96 hours and not exceeding 288 hours, one-half of the scale to be added.

If exceeding 288 hours, to pay the same rate outwards as paid inwards.

The above rates to be applicable to all vessels, whether steamers, sailing vessels, or native craft.

Dues payable by Ships discharging or loading Cargo.

12½c. per ton upon all cargo discharged or loaded by vessels up to 200 tons register.

25c. per ton upon all cargo discharged or loaded by vessels above 200 tons register.

Cargo brought to the port for transhipment to be free of dues under this heading, if not landed, or if landed and not entered for duty.

Live stock: cattle, Re. 1 per head; horses, Rs. 5 per head; sheep and goats, 20c. per head.

Vessels of 300 tons and under to be allowed to land or ship 5 tons of cargo free.

Vessels over 300 tons to be allowed to land or ship 10 tons free.

Petroleum liquid fuel and coal to pay 25c. a ton inwards only.

Dues payable on Imports.

For Five Days.	Cents.
For each butt, pipe, or puncheon	50
Half pipe or hogshead	25
Barrel or quarter cask	15
Cask or keg of smaller size, and empty cask ...	10
Crate, cask, or case of hardware, earthenware, or ironmongery	25
Bale, case, or box measuring 60 cubic ft. or upwards ...	25
Do. do. 40 cubic ft. and under 60 cubic ft.	20
Do. do. 25 do. 40 do. ...	15
Do. do. 15 do. 25 do. ...	12
Do. do. 10 do. 15 do. ...	8
Do. do. 5 do. 10 do. ...	6
Each small box or package	4
Bag of rice or sugar	4
Beer, wine, or spirits in bottle, per dozen quarts ...	4
Coir yarn or rope, in ballots or bundles, per cwt. ...	5
Manure, in bags or casks, per ton	25
Heavy goods, such as metal or timber, per ton... ...	25
Other goods of like size or weight to be charged in proportion to these rates.	
Kerosine oil in bulk, Rs. 2·50 per 1,000 gallons.	
Petroleum liquid fuel in bulk, Rs. 2·50 per 1,000 gallons.	
All other goods not enumerated in the Tariff, per ton ...	25

Digitized by Google

Customs.

(*a*) These rates to admit of goods remaining at the wharf for a term not exceeding five days, exclusive of Sundays and holidays, of which the day of receipt and the day of removal shall each count as one day. Thereafter an additional similar rate to be charged for each succeeding five days or part thereof.

(*b*) All goods brought from abroad to be re-shipped to a British or foreign port, or to be re-shipped coastwise, shall be considered as landed for transhipment or re-shipment, provided they are on landing deposited in, or within five days after landing removed to, a re-shipment warehouse.

(*c*) Such goods, if re-shipped within five days after landing, to be free of harbour dues.

(*d*) If not re-shipped within five days, but deposited in a re-shipment warehouse, to be liable only to a single rate of harbour dues.

(*e*) If not removed from a usual landing warehouse till after five days from the date of landing, they shall pay the cumulative rate from the date of landing till such removal.

Coastwise goods brought for transhipment or re-shipment, not being through cargo, shall if landed pay both import and export dues; if transhipped without being landed, they shall only be liable to export dues.

Dues payable on Exports.

For Five Days.	Cents.
For each leaguer, pipe, or cask of like size	25
Hogshead or cask of like size	12
Cask or barrel of coffee not weighing more than 3 cwt. gross	6
Cask weighing more than 3 cwt. and less than 7 cwt. ...	8
Casks weighing more than 7 cwt.	12
Empty cask, each	10
Barrel of plumbago, barrel of same size containing other articles, and empty plumbago barrel	7
Bale, case, or package measuring 60 cubic ft. and upwards ...	25
Do. do. 40 cubic ft. and 60 cubic ft.	20
Do. do. 25 do. 40 do. ...	15
Do. do. 15 do. 25 do. ...	12
Do. do. 10 do. 15 do. ...	8
Do. do. 5 do. 10 do. ...	6
Smaller box or package	2
Bag of coffee	4
Bag of cinnamon weighing not more than 100 lb., or bale under 5 cubic ft.	2
Other goods of like size or weight to be charged in proportion to these rates.	
Coir goods in ballots or bundles, per cwt.	4
Cocoanuts in bags or loose, per 100	4
Metal and timber exported from Colombo, per ton ...	12
For each box or chest of tea on net weight, as marked on each package:—	
For every 50 lb.	3
For every additional 50 lb. or fraction thereof ...	3
Package or box of less weight	2
All other articles not enumerated in the Tariff, per ton ...	25

These rates to admit of goods remaining at the wharf for a term not exceeding five days, of which the day of receipt and the day of removal shall each count as one day. Thereafter an additional similar rate to be charged for each succeeding five days or part thereof.

Digitized by Google

Customs.

Exemptions.

Military baggage, both inwards and outwards.

Passengers' baggage outwards and inwards when no declaration is made or entry passed.

Dhobies' bundles and dubashes' supplies.

Exports shut out and re-landed.

II.—PORT DUES LEVIABLE AT ALL PORTS EXCEPT COLOMBO.

Port dues shall be leviable and payable for entry inwards and for clearance outwards on all ships arriving at or departing from any part of this island (except Colombo) according to the following table. Provided always that when a vessel has paid port dues inwards or outwards she shall not be liable for additional port dues for goods carried coastwise during the same voyage:—

Port Dues leviable at per Ton Burthen.

On entry inwards with cargo or with passengers exceeding one person for every two tons ... On clearance outwards with cargo or with passengers exceeding one person for every two tons of burthen...	8c. per ton
In the case of mail steamers, of whatever tonnages, the dues either inwards or outwards are not to exceed	Rs. 50

Composition for Port Dues.

Vessels conveying goods between one port and another within the Island are allowed to compound for port dues for twelve months, per ton	50 cents

Exemptions.

On entry inwards in ballast or with cargo reported for exportation, and the vessel leaves the port without breaking bulk or landing passengers exceeding one person for every two tons ...	Free
On clearance in ballast or with the original cargo, if the vessel leaves the port without shipping goods or passengers exceeding one person for every two tons of burthen	„
Ships of 250 tons and upwards, not being mail steamers, landing cargo not exceeding 10 tons and shipping cargo not exceeding 10 tons ...	„

22nd December, 1898.

Digitized by Google

No. 19 of 1869.

To make provision relating to the possession and use of Firearms.

(*See No. 3 of 1890.*)

WHEREAS it is expedient to make provision respecting the possession and use of firearms in this Island: It is therefore hereby enacted as follows: **Preamble.**

1 This Ordinance shall commence and take effect from and after the passing thereof. **Ordinance when to take effect.**

2 In the construction of this Ordinance the word "arms" shall be deemed and construed to include every description of firearms and air-guns, and every separate gun or pistol, barrel or stock, and no other weapon whatever. **Interpretation clause.**

3 It shall not be lawful for any person to have in his custody or possession any arms without having obtained a license for such arms; and any party who shall have in his custody or possession any arms without having obtained such license shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding two pounds, and all such arms shall be forfeited to the use of Her Majesty, her heirs and successors, if the court before which such conviction shall take place shall so adjudge: Provided, however, that nothing herein contained shall be construed to apply or extend to any licensed manufacturer of or dealer in arms, nor to any person while actually employed by any such manufacturer of or dealer in arms to carry or convey arms for the purposes of his trade, nor to any person while entrusted by a person, having any such license, with the temporary use or custody (whether as the servant of the owner, or by way of security for any debt or otherwise) of any arms for which a license has been obtained; and provided also that no member of the family of a deceased person who had at the time of his decease a license to keep arms shall be liable to any fine for having such arms until after the expiration of one calendar month from the death of such licensed person. **License to possess firearms.** **Penalty.** **Proviso.**

4 Every license duly obtained under and in virtue of the provisions of the Ordinance No. 13 of 1847,* or the Ordinance No. 22 of 1848,† shall be and continue in full force and effect so long as the arms for which the same was granted shall remain in the custody and possession of the person to whom such license was issued. **Licenses issued under former Ordinances to remain in force.**

5 Any person who may be desirous to obtain any license under the provisions of this Ordinance shall make an application verbally or in writing to that effect to the government agent or some assistant government agent of the province within which such person resides, specifying the name and residence of such person, and the number and description of arms for which licenses are required; and such government **License how obtained.**

* Repealed by No. 22 of 1848, itself repealed by No. 5 of 1869.

† Repealed by No. 5 of 1869.

Digitized by Google

agent or assistant government agent shall issue to the person making the same a license for each gun, pistol, or other description of arms specified, as near as is material according to the form in the schedule A hereto, which license shall be on a stamp of two shillings and sixpence : Provided always, however, that when any person shall apply for a license for any arms for which a license has been previously obtained by the former owner thereof, it shall be lawful for the government agent or assistant government agent, and he is hereby required, to issue such license on a stamp of one shilling only.

Firearms may be marked by the government agent, if necessary.

6 Whenever any such arms are not marked with such names or figures, or in such other manner as that the same may be readily identified, it shall be lawful for the government agent or assistant government agent to whom the application is made, before granting the license applied for, to require the applicant to produce to him any such arms, and thereupon to cause the same to be marked, either on the stock or barrel, with some permanent mark, whereby the same may afterwards be known and identified, but in such manner as not to injure or disfigure the same; and such arms when duly marked shall, with the license relating thereto, be delivered to the said applicant; and the expenses attendant on such marking shall be defrayed by the government agent or assistant government agent out of the public funds; and if any person shall wilfully obliterate or deface, or shall alter, counterfeit, or forge any such mark, or any mark put on any arms under the provisions of the Ordinance No. 13 of 1847* or the Ordinance No. 22 of 1848,† or shall mark any arms with any mark resembling or intended to resemble any mark used by such government agent or assistant government agent, under the provisions of this Ordinance or of the Ordinances above specified, with intent thereby to expose any person to any fine, or to defraud Her Majesty of any stamp duty, or to commit any other fraud, every such offender shall forfeit for each offence a sum not exceeding twenty pounds.

Penalty for fraudulently obliterating or forging mark.

Register of licenses.

7 Every government agent and assistant government agent shall register all such licenses so granted in a book to be kept for that purpose; and it shall be lawful for any person, at any time during office hours, to demand inspection of the said book, and also to take any copy or extract therefrom.

Proceedings where license is lost, &c.

8 If any such license granted under the provisions of this Ordinance, or of the Ordinances above specified, shall be by any casualty destroyed, defaced, or lost, it shall be lawful for the person to whom the same shall have been granted to report the same to the government agent or any assistant government agent for the province wherein such person resides; and if such government agent or assistant government agent shall be satisfied of the fact of such casualty or

* Repealed by No. 22 of 1848, itself repealed by No. 5 of 1869.
† Repealed by No. 5 of 1869.

Digitized by Google

loss, he shall grant to such person a certificate in substantially the form B in the schedule hereto, reciting such loss, and setting out the purport and effect of the license so lost, defaced, or destroyed, and such certificate shall be in lieu thereof and of like force and effect.

9 The occupier of any house or premises in which any arms shall be found shall, for the purposes of this Ordinance, be deemed and taken to be the possessor of such arms. Proof of ownership.

10 No person shall make or keep for or expose to sale in this island, by way of auction or otherwise, any arms or any part of any arms without a license from the government agent or some assistant government agent of the province within which such person resides, which license shall be substantially according to the form C in the schedule hereto, and shall be on a stamp of one pound; and if any person shall have in his custody or possession, for the purpose of his trade as a manufacturer of or dealer in arms, any arms, or part thereof, without being so licensed, every such offender shall be liable on conviction thereof to a fine not exceeding five pounds: Provided always that nothing herein contained shall be construed to prevent any person licensed to possess arms under the Ordinances above specified or under this Ordinance, from selling any arms for which he has obtained a license: Provided also that every license to manufacture or sell arms duly obtained under and in virtue of the provisions of the Ordinances shall be and continue in full force and effect so long as the person to whom the same was granted shall continue to exercise his trade as a manufacturer of or dealer in arms.

License to manufacture or sell arms.

Penalty.

Not to extend to sale of arms by the licensed owner thereof.

Licenses issued to dealers under former Ordinances to remain in force.

11 If any headman or officer of police, or any peace officer whomsoever, shall fail to inform against any person guilty of possessing or using arms without a license, and whom he shall have good reason to know or to believe to be guilty thereof, such headman, officer of police, or peace officer shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding five pounds in respect of every failure to inform against any such person as aforesaid.

Headman to give information.

12 It shall be lawful for any magistrate to direct that any sum not exceeding one-half of the fines actually recovered and realized under the provisions of this Ordinance shall go to the informer.

Informer's share of penalty.

13 Whenever any person shall be charged before a competent court with possessing or using arms without a license, the party complaining shall not be required to prove the want of license, but the proof that such person is licensed shall be upon the accused: Provided that it shall be lawful for the court to award a reasonable sum in lieu of costs to the accused against any person who may have made a vexatious complaint, and such sum shall be recovered in like manner as any fine imposed under the provisions of this Ordinance.

Proof of license.

Vexatious complaints how punished.

Digitized by Google

Limitation of prosecutions.

14 No prosecution shall be instituted against any person for any offence committed against any of the provisions of this Ordinance cognizable by a police court, unless the same shall be commenced within one month from the time of the commission of such offence.

Ordinance not to extend to military and naval persons.

15 Nothing in this Ordinance contained shall apply to or affect any person serving in Her Majesty's forces, or in any police force, or in any corps of pioneers in this island, in respect of any arms intrusted to or used by any such person in such capacity.

SCHEDULE.

Form A (Section 5).

Form of License to possess and use Arms.

No. ——.

A. B., of ———, was this day licensed to possess and use (a double-barrelled fowling piece, by Manton, No. 6,749, *or* a single-barrelled pistol marked on the barrel ———, *or as the case may be*).

Issued the ——— day of ———.

(Signed) ———,
Government Agent.

Form B (Section 8).

Whereas on the ——— day of ——— last, a license to keep the arms herein mentioned was granted by ——— to *A. B.*, of ———: And whereas it has been proved to my satisfaction that the said license has been (destroyed, defaced, *or* lost, *as the case may be*): Now I do hereby grant the said *A. B.* this certificate, to be in lieu of the said license, and of the like force and effect.

Given under my hand at ———, this ——— day of ———.

(Signed) ———,
Government Agent.

(*Here insert the description of the arms licensed.*)

Form C (Section 10).

License to make and sell Arms.

No. ——.

License is hereby granted to *A. B.*, of ———, to use and exercise the trade or calling of a manufacturer of or dealer in arms at ———, in the district of ———.

Given at ———, the ——— day of ———.

(Signed) ———,
Government Agent.

31st December, 1869.

Digitized by Google

No. 1 of 1870.

An Ordinance relating to the Fixed Civil Establishments of the Colony.

(See No. 8 of 1872 and No. 14 of 1881.)

WHEREAS it is expedient to revise and consolidate the laws relating to the fixed civil establishments of the colony: It is enacted as follows: **Preamble.**

1 The Ordinances No. 1 of 1858, entitled "An Ordinance for establishing permanently certain Public Expenditure," No. 11 of 1859, entitled "An Ordinance for amending the Fixed Establishment of the Northern Province," and No. 14 of 1864, entitled "An Ordinance for amending the Ordinances No. 1 of 1858 and No. 11 of 1859," shall be and they are hereby repealed. **Repeal of Ordinances 1 of 1858, 11 of 1859, and 14 of 1864.**

2 The Governor is hereby authorized and empowered to issue, from year to year, his warrant for the payment of the several yearly salaries and allowances, as appropriated in the schedule A hereto annexed. **Governor may authorize payment of salaries as per schedule A.**

3 The persons enumerated in the second column of schedule B to this Ordinance shall consist of all the officers of the several departments named in the first column, excepting such as are specified in schedule A. **Salaries of subordinate officers provided for in schedule B.**

4 It shall be lawful for the Governor, with the advice and consent of the Executive Council, to determine the number of officers included in schedule B to be attached to each office, as also the payment to be awarded to each officer, and from time to time to vary the details of establishment in each office, and amend the distribution of the salaries of the officers thereunto belonging: Provided that the number of persons in each office, exclusive of those provided for in schedule A, shall in no case exceed that specified in the second column of the schedule B, and that the aggregate payment of such persons in each office shall in no case exceed the sums specified in the third column of the said schedule B: Provided further, that the payment of all officers included in schedule B, drawing salaries of fifty pounds a year and upwards, shall be in accordance with the classification in the schedule C, also hereunto annexed. **Governor to settle details of establishment under schedule B, and vary them from time to time.**

5 The Governor is hereby authorized and empowered to issue from year to year his warrant for the payment of the several yearly salaries and allowances of the officers in each department, as the same shall be fixed and apportioned by him under the fourth section of this Ordinance. **Governor may authorize payment of salaries as per schedule B.**

6 The Governor is also hereby authorized and empowered to issue his warrant for the payment of the several pensions, retired allowances, and gratuities, which have been already granted or which may hereafter be granted, in conformity with the provisions contained in the minutes of Government relating thereto now in force, or which may hereafter be made and issued. **Governor may authorize payment of pensions.**

Digitized by Google

Civil Establishments.

SCHEDULE A.

	Fixed Establishment £ s. d.	Total. £ s. d.
I.—CIVIL.		
HIS EXCELLENCY THE GOVERNOR.		
His Excellency the Governor ...	7,000 0 0	
Aide-de-Camp	515 7 6	
Private Secretary	300 0 0	
		7,815 7 6
SECRETARIAT.		
Colonial secretary	2,000 0 0	
Principal assistant and clerk to the Councils	1,000 0 0	
Second assistant and record keeper ...	600 0 0	
Twelve writers at £200 each ...	2,400 0 0	
Sinhalese interpreter to the Governor and translator	250 0 0	
		6,250 0 0
Printing Branch.		
Government printer	500 0 0	
Assistant government printer ...	250 0 0	
		750 0 0
		7,000 0 0
GENERAL TREASURY.		
Treasurer and commissioner of stamps	—	1,500 0 0
AUDIT OFFICE.		
Auditor and accountant-general and comptroller of revenue ...	1,500 0 0	
Assistant auditor-general ...	350 0 0	
		1,850 0 0
PROVINCIAL AGENCIES.		
Western Province.		
Agent	1,500 0 0	
Assistant agent, Colombo ...	450 0 0	
Assistant agent, Ratnapura ...	800 0 0	
Assistant agent, Kegalla ...	600 0 0	
		3,350 0 0
North-Western Province.		
Agent	1,200 0 0	
Assistant agent, Kurunegala ...	450 0 0	
Assistant agent, with judicial duties, Puttalam	800 0 0	
		2,450 0 0
Southern Province.		
Agent	1,400 0 0	
Assistant agent, Galle ...	450 0 0	
Assistant agent, Matara ...	600 0 0	
Assistant agent, with judicial duties, Hambantota	800 0 0	
		3,250 0 0
Eastern Province.		
Agent	1,200 0 0	
Assistant agent, Batticaloa ...	450 0 0	
Assistant agent Trincomalee ..	800 0 0	
		2,450 0 0

Digitized by Google

Civil Establishments.

	Fixed Establishment			Total.		
PROVINCIAL AGENCIES—*contd.*	£	s.	d.	£	s.	d.
Northern Province.						
Agent	1,500	0	0			
Assistant agent, Jaffna ...	450	0	0			
Assistant agent, with judicial duties, Mannar	800	0	0			
Assistant agent, with judicial duties, Anuradhapura	800	0	0			
Assistant agent, with judicial duties, Mullaittivu	600	0	0			
				4,150	0	0
Central Province.						
Agent	1,500	0	0			
Assistant agent, Kandy ...	450	0	0			
Assistant agent, Badulla ...	800	0	0			
Assistant agent, Matale ...	600	0	0			
Assistant agent, with judicial duties, Nuwara Eliya	450	0	0			
				3,800	0	0
PUBLIC WORKS DEPARTMENT.						
Director of public works ...	1,500	0	0			
Six provincial assistants, 2 at £1,000 each, 2 at £800 each, 2 at £600 each...	4,800	0	0			
Irrigation assistant	800	0	0			
Financial assistant	750	0	0			
Second assistant	400	0	0			
Office assistant	750	0	0			
Architect assistant	750	0	0			
Inspector of pioneers ...	600	0	0			
Six draftsmen and framers of estimates, 3 at £500 each and 3 at £400 each ...	2,700	0	0			
18 superintending officers, 1 at £600, 4 at £400 each, 2 at £350 each, 9 at £300 each, and 2 at £250 each ...	6,100	0	0			
Factory engineer ...	400	0	0			
				19,550	0	0
SURVEY DEPARTMENT.						
Surveyor-general	1,200	0	0			
First assistant	750	0	0			
Second assistant	650	0	0			
Third assistant	600	0	0			
Fourth assistant	550	0	0			
Fifth assistant	500	0	0			
Sixth assistant	450	0	0			
Seventh assistant	400	0	0			
Eighth assistant	300	0	0			
				5,400	0	0
CUSTOMS DEPARTMENT.						
Principal collector of customs, Colombo	1,200	0	0			
Deputy collector and landing surveyor	800	0	0			
Landing surveyor, Colombo ...	600	0	0			
				2,600	0	0
Collector of customs, Galle ...	700	0	0			
Landing and tide surveyor, Galle ...	450	0	0			
				1,150	0	0
Assistant collector and landing surveyor, Jaffna	—			450	0	0
Assistant collector and landing surveyor, with duties of master attendant, Trincomalee	—			350	0	0
				4,550	0	0

Digitized by Google

Civil Establishments.

	Fixed Establishment			Total.		
	£	s.	d.	£	s.	d.
Harbour Department.						
Master attendant, Colombo ...	500	0	0			
Master attendant, Galle ...	500	0	0			
				1,000	0	0
Post Office.						
Postmaster-general	800	0	0			
Inspector of post offices and assistant postmaster-general	500	0	0			
				1300	0	0
Deputy postmaster-general, Galle ...	—			300	0	0
Deputy postmaster-general, Kandy ...	—			300	0	0
				1,900	0	0
Royal Botanic Garden.						
Director	—			450	0	0
II.—JUDICIAL.						
Supreme Court.						
Chief justice	2,500	0	0			
Private secretary to chief justice ...	270	0	0			
Two puisne justices at £1,800 each ...	3,600	0	0			
Two private secretaries at £180 each ...	360	0	0			
				6,730	0	0
Registry of the Supreme Court.						
Registrar	600	0	0			
First deputy registrar... ...	350	0	0			
Second deputy registrar ...	300	0	0			
				1,250	0	0
Queen's Advocate's Department.						
Queen's advocate	1,500	0	0			
Deputy Queen's advocate, Midland circuit	400	0	0			
Deputy Queen's advocate, Northern circuit	400	0	0			
Deputy Queen's advocate, Southern circuit	400	0	0			
Deputy Queen's advocate, North-Western province	300	0	0			
Deputy Queen's advocate, Eastern province	300	0	0			
				3,300	0	0
Deputy Queen's Advocate's Department.						
Deputy Queen's advocate ...	—			1,000	0	0
District Courts.						
District judge, Colombo ...	1,200	0	0			
District judge, commissioner of the court of requests, and police magistrate, Galle	1,200	0	0			
District judge and joint commissioner of the court of requests, Kandy ...	1,200	0	0			
District judge, Jaffna	1,000	0	0			

Civil Establishments.

	Fixed Establishment			Total.		
	£	s.	d.	£	s.	d.
DISTRICT COURTS—*contd.*						
District judge, commissioner of the court of requests, and police magistrate, Batticaloa	800	0	0			
District judge and joint commissioner of the court of requests and police magistrate, Kalutara ...	800	0	0			
District judge, commissioner of the court of requests, and police magistrate, Kurunegala	800	0	0			
District judge, commissioner of the court of requests, and police magistrate, Badulla	600	0	0			
District judge, commissioner of the court of requests, and police magistrate, Chilaw	600	0	0			
District judge, commissioner of the court of requests, and police magistrate, Kegalla	600	0	0			
District judge, commissioner of the court of requests, and police magistrate, Matara	600	0	0			
District judge, commissioner of the court of requests, and police magistrate, Negombo	600	0	0			
District judge, commissioner of the court of requests, and police magistrate, Ratnapura	600	0	0			
District judge, commissioner of the court of requests, and police magistrate, Tangalla	600	0	0			
District judge, commissioner of the court of requests, and police magistrate, Trincomalee	600	0	0			
				11,800	0	0
COURTS OF REQUESTS AND POLICE COURTS.						
Police magistrate, Colombo ...	600	0	0			
Commissioner of the court of requests, Colombo	600	0	0			
Commissioner of the court of requests and police magistrate, Galle ...	600	0	0			
Commissioner of the court of requests and police magistrate, Kandy ...	600	0	0			
Commissioner of the court of requests and police magistrate, Gampola ...	450	0	0			
Commissioner of the court of requests and police magistrate, Jaffna ...	450	0	0			
Commissioner of the court of requests and police magistrate, Matale and Dambulla	450	0	0			
Commissioner of the court of requests and police magistrate, Avisawella and Pasyala	350	0	0			
Commissioner of the court of requests and police magistrate, Balapitimodara	350	0	0			
Commissioner of the court of requests and police magistrate, Chavakachcheri	350	0	0			

39-00

Digitized by Google

Civil Establishments.

	Fixed Establishment			Total.		
	£	s.	d.	£	s.	d.
COURTS OF REQUESTS AND POLICE COURTS—*contd.*						
Commissioner of the court of requests and police magistrate, Galagedara ...	350	0	0			
Commissioner of the court of requests and police magistrate, Haldummulla	350	0	0			
Commissioner of the court of requests and police magistrate, Kayts ...	350	0	0			
Commissioner of the court of requests and police magistrate, Kalpitiya ...	350	0	0			
Commissioner of the court of requests and police magistrate, Panadure ...	350	0	0			
Commissioner of the court of requests and police magistrate, Panwila and Urugala	350	0	0			
Commissioner of the court of requests and police magistrate, Point Pedro	350	0	0			
				7,250	0	0
REGISTRATION DEPARTMENT.						
Registrar-General	—			800	0	0
FISCALS.						
Fiscal, Colombo	800	0	0			
Fiscal, Kandy	600	0	0			
				1,400	0	0
LOAN BOARD.						
Secretary	—			300	0	0
III.—ECCLESIASTICAL.						
CHURCH OF ENGLAND.						
Bishop	2,000	0	0			
Allowance to archdeacon ...	100	0	0			
Colonial chaplain, St. Peter's Church ...	600	0	0			
Colonial chaplain, Trinity Church ...	600	0	0			
Sinhalese colonial chaplain, All Saints' Church	400	0	0			
Portuguese colonial chaplain, St. Paul's Church	300	0	0			
Tamil colonial chaplain, St. Thomas' Church	250	0	0			
Sinhalese Colonial chaplain for the district of Galkissa and Milagiriya ...	125	0	0			
Sinhalese Colonial chaplain for the district of Moratuwa and Koralawella	125	0	0			
				4,500	0	0
Colonial chaplain, Galle ...	—			700	0	0
Colonial chaplain, Kandy ...	—			600	0	0
Colonial chaplain, Trincomalee ...	—			600	0	0
Colonial chaplain, Jaffna ...	—			300	0	0
Colonial chaplain, Nuwara Eliya ...	—			200	0	0
				6,900	0	0

Digitized by Google

Civil Establishments.

	Fixed Establishment			Total.		
	£	s.	d.	£	s.	d.
PRESBYTERIAN CHURCH.						
Colonial chaplain of St. Andrew's Church, Colombo	450	0	0			
Colonial chaplain of Wolfendahl Church, Colombo	450	0	0			
				900	0	0
Colonial chaplain, Kandy ...	—			450	0	0
Colonial chaplain, Galle ...	—			450	0	0
				1,800	0	0
IV.—PUBLIC INSTRUCTION.						
Director	1,000	0	0			
Inspector of schools	500	0	0			
Principal, Colombo Academy ...	600	0	0			
Second master, Colombo Academy ...	400	0	0			
				2,500	0	0
V.—MEDICAL.						
Principal civil medical officer and inspector-general of hospitals ...	1,200	0	0			
Three colonial surgeons, 2 at £600 each, 1 at £500	1,700	0	0			
Ten first class assistant colonial surgeons at £300 each	3,000	0	0			
Fifteen second class do. at £200 each...	3,000	0	0			
Eight third class do. at £150 each...	1,200	0	0			
				10,100	0	0
VI.—POLICE.						
Inspector-general of police ... (Future holder of the appointment £1,000)	1,200	0	0			
Two provincial superintendents at £500 each	1,000	0	0			
				2,200	0	0
VII.—PRISONS.						
Inspector-general of prisons ...	1,000	0	0			
Superintendent of the Colombo convict establishments	800	0	0			
				1,800	0	0
VIII.—COLONIAL STORE.						
Colonial storekeeper	800	0	0			
Assistant colonial storekeeper £300, increasing by annual increments of £20 to	400	0	0			
				1,200	0	0

Digitized by Google

Civil Establishments.

SCHEDULE B.

Name of Department.	Total Number of Persons not exceeding	Total Amount of Salaries. £	s.	d.
His Excellency the Governor ...	10	215	16	0
Secretariat	29	2,541	16	0
Do. Printing office ...	34	1,445	0	0
Treasury	24	1,931	0	0
Audit office	18	1,745	C	0
Agencies :—				
Western province : Colombo ...	64	3,629	0	0
Kegalla	25	737	12	0
Ratnapura ...	21	704	0	0
North-Western province: Kurunegala...	41	1,427	0	0
Puttalam	28	1,530	0	0
Southern province : Galle ...	26	1,629	0	0
Hambantota ...	26	1,216	0	0
Matara	21	981	0	0
Eastern province : Batticaloa ...	63	1,727	0	0
Trincomalee ...	26	756	0	0
Northern province : Jaffna ...	94	2,328	0	0
Anuradhapura ...	20	650	0	0
Mannar	64	1,117	6	0
Mullaittivu ...	24	406	0	0
Central province : Kandy ...	55	2,709	4	0
Badulla	41	1,223	0	0
Matale	16	462	4	0
Nuwara Eliya ...	15	528	4	0
Public works department ...	30	2,265	0	0
Survey department	12	1,360	0	0
Customs department : Western and North-Western provinces ...	72	3,888	0	0
Southern province ...	25	1,083	0	0
Eastern province ...	10	239	0	0
Northern province ...	41	1,462	0	0
Harbour department : Colombo ...	7	207	10	0
Galle	3	49	0	0
Trincomalee ...	1	40	0	0
Post office : Western province ...	33	1,061	0	0
North-Western province ...	41	559	0	0
Southern province ...	12	444	0	0
Eastern province ...	4	106	0	0
Northern province ...	14	329	0	0
Central province ...	26	1,062	0	0
Royal botanic garden	9	308	0	0
Registry of the Supreme Court ...	23	864	16	0
Queen's advocate	15	670	12	0
Deputy Queen's advocate ...	4	135	0	0
District courts : Anuradhapura ...	6	274	0	0
Badulla	9	529	12	0
Batticaloa	8	374	0	0
Chilaw	7	284	0	0
Colombo	13	910	0	0
Galle	11	714	0	0
Jaffna	11	446	0	0

Digitized by Google

Civil Establishments.

Name of Department.	Total Number of Persons not exceeding	Total Amount of Salaries. £	s.	d.
District courts—*continued.*				
Kalutara	12	541	0	0
Kandy	12	835	0	0
Kegalla	5	249	0	0
Kurunegala ...	11	549	0	0
Mannar	6	269	0	0
Matara	9	427	0	0
Mullaittivu ...	5	177	0	0
Negombo	9	414	0	0
Ratnapura... ...	9	389	0	0
Tangalla	6	304	0	0
Trincomalee ...	8	384	0	0
Court of requests : Colombo ...	10	515	0	0
Police courts : Avisawella ...	5	224	0	0
Balapitimodara ...	6	246	0	0
Colombo	8	445	0	0
Chavakachcheri ...	5	162	0	0
Dambulla	5	195	0	0
Galle	7	384	0	0
Galagedara ...	6	256	0	0
Gampola	4	194	0	0
Haldummulla ...	4	186	0	0
Hambantota ...	3	182	0	0
Jaffna	5	202	0	0
Kalpitiya	5	234	0	0
Kandy	10	560	0	0
Kayts	5	157	0	0
Matale	5	229	0	0
Matara	3	114	0	0
Nuwara Eliya ...	3	120	0	0
Panadure	5	234	0	0
Panwila and Urugala ...	7	301	0	0
Point Pedro ...	5	162	0	0
Puttalam	5	234	0	0
Registration department ...	106	6,203	0	0
Fiscals : Western province ...	103	2,271	18	0
North-Western province ...	45	892	0	0
Southern province ...	104	1,881	0	0
Eastern province ...	30	636	0	0
Northern province ...	78	1,453	0	0
Central province ...	89	1,777	12	0
Loan board	6	330	0	0
Ecclesiastical department ..	17	620	0	0
Public instruction	9	1,675	0	0
Medical department	41	320	4	0
Police	2	330	0	0
Prisons : Inspector-general ...	2	65	0	0
Colombo convict establishments	32	933	0	0
Colonial store	35	1,430	2	6
Total ...	—	82,695	8	6

Digitized by Google

Civil Establishments.

Abstract.

	Schedule A.			Schedule B.			Total.		
I.—CIVIL.	£	s.	d.	£	s.	d.	£	s.	d.
His Excellency the Governor	7,815	7	6	215	16	0	8,031	3	6
Secretariat... ...	7,000	0	0	3,986	16	0	10,986	16	0
General treasury ...	1,500	0	0	1,931	0	0	3,431	0	0
Audit office ...	1,850	0	0	1,745	0	0	3,595	0	0
Agencies :—									
Western province ...	3,350	0	0	5,070	12	0	8,420	12	0
North-Western province	2,450	0	0	2,957	0	0	5,407	0	0
Southern province ...	3,250	0	0	3,826	0	0	7,076	0	0
Eastern province ...	2,450	0	0	2,483	0	0	4,933	0	0
Northern province ...	4,150	0	0	4,501	6	0	8,651	6	0
Central province ...	3,800	0	0	4,922	12	0	8,722	12	0
Public works department...	19,550	0	0	2,265	0	0	21,815	0	0
Survey department ...	5,400	0	0	1,360	0	0	6,760	0	0
Customs department ...	4,550	0	0	6,672	0	0	11,222	0	0
Harbour department ...	1,000	0	0	296	10	0	1,296	10	0
Post office ...	1,900	0	0	3,561	0	0	5,461	0	0
Royal botanic garden ...	450	0	0	308	0	0	758	0	0
Total, Civil ...	70,465	7	6	46,101	12	0	116,566	19	6
II.—JUDICIAL.									
Supreme Court ...	6,730	0	0	—			6,730	0	0
Registry of the Supreme Court	1,250	0	0	864	16	0	2,114	16	0
Queen's advocate's department	3,300	0	0	670	12	0	3,970	12	0
Deputy Queen's advocate's department ...	1,000	0	0	135	0	0	1,135	0	0
District courts ...	11,800	0	0	8,069	12	0	19,869	12	0
Courts of requests and police courts ...	7,250	0	0	5,536	0	0	12,786	0	0
Registration department...	800	0	0	6,203	0	0	7,003	0	0
Fiscals	1,400	0	0	8,911	10	0	10,311	10	0
Loan Board ...	300	0	0	330	0	0	630	0	0
Total, Judicial ...	33,830	0	0	30,720	10	0	64,550	10	0
III.—ECCLESIASTICAL.									
Church of England ...	6,900	0	0	620	0	0	7,520	0	0
Presbyterian Church ...	1,800	0	0	—			1,800	0	0
Total, Ecclesiastical...	8,700	0	0	620	0	0	9,320	0	0
IV.—PUBLIC INSTRUCTION ...	2,500	0	0	1,675	0	0	4,175	0	0
V.—MEDICAL DEPARTMENT ...	10,100	0	0	820	4	0	10,920	4	0
VI.—POLICE ...	2,200	0	0	330	0	0	2,530	0	0
VII.—PRISONS ...	1,800	0	0	998	0	0	2,798	0	0
VIII.—COLONIAL STORE...	1,200	0	0	1,430	2	6	2,630	2	6
Total ...	130,795	7	6	82,695	8	6	213,490	16	0

Digitized by Google

SCHEDULE C.

Classification of Salaries between £300 and £50.

For Clerks and Officers in the Revenue, Judicial, Scientific, and Customs Departments.

Class.		£	Class.		£	Class.		£
I.	...	300	VII.	...	150	XIII.	...	90
II.	...	250	VIII.	...	140	XIV.	...	80
III.	...	200	IX.	...	130	XV.	...	70
IV.	...	180	X.	...	120	XVI.	...	60
V.	...	170	XI.	...	110	XVII.	...	50
VI.	...	160	XII.	...	100			

For Interpreters and Shroffs.

Class.		£	Class.		£	Class.		£
I.	...	250	V.	...	100	IX.	...	60
II.	...	180	VI.	...	90	X.	...	50
III.	...	140	VII.	...	80			
IV.	...	120	VIII.	...	70			

For Officers of the Salt Department.

Class.		£	Class.		£	Class.		£
I.	...	200	IV.	...	100	VII.	...	50
II.	...	150	V.	...	80			
III.	...	120	VI.	...	60			

5th January, 1870.

No. 8 of 1872.

An Ordinance for amending the Ordinance No. 1 of 1870.

WHEREAS it is expedient to amend in certain respects the Ordinance No. 1 of 1870, entitled "An Ordinance relating to the Fixed Civil Establishments of the Colony :" It is enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows : Preamble.

1 The said Ordinance and the schedule thereunto annexed, so far as they relate to the officers included in the schedule hereunto annexed, shall be and the same are hereby repealed. Repealing section.

2 The Governor is hereby authorized and empowered to issue from year to year his warrant for the payment of the several yearly salaries and allowances as appropriated in the schedule hereunto annexed. Governor to issue warrant for payment of salaries ;

3 The Governor is also hereby authorized and empowered to issue his warrant for the payment of the several pensions, retired allowances, and gratuities, which have been already granted or which may hereafter be granted, in conformity with the provisions contained in the Minutes of Government relating thereto, now in force, or which may hereafter be made and issued. and for payment of pensions, &c.

4 This Ordinance shall come into operation on the first day of January, One thousand Eight hundred and Seventy-three. Commencement.

Digitized by Google

Civil Establishments.

SCHEDULE.

	Fixed Establishment.		Total.	
	Rs.	c.	Rs.	c.
I.—CIVIL.				
SECRETARIAT.				
Twelve writers at Rs. 3,000 each ...	—		36,000	0
AUDIT OFFICE.				
Assistant auditor-general	—		4,000	0
CUSTOMS DEPARTMENT.				
Assistant collector and landing surveyor, Trincomalee	—		4,000	0
			44,000	0
II.—JUDICIAL.				
COURTS OF REQUESTS AND POLICE COURTS.				
Commissioner of the court of requests and police magistrate, Avisawella and Pasyala	4,000	0		
Commissioner of the court of requests and police magistrate, Balapitimodara ...	4,000	0		
Commissioner of the court of requests and police magistrate, Galagedara ...	4,000	0		
Commissioner of the court of requests and police magistrate, Haldummulla ...	4,000	0		
Commissioner of the court of requests and police magistrate, Kayts ...	4,000	0		
Commissioner of the court of requests and police magistrate, Kalpitiya and Puttalam	4,000	0		
Commissioner of the court of requests and police magistrate, Matara ...	4,000	0		
Commissioner of the court of requests and police magistrate, Panadure ...	4,000	0		
Commissioner of the court of requests and police magistrate, Panwila and Urugala ...	4,000	0		
Commissioner of the court of requests and police Magistrate, Point Pedro and Chavakachcheri	4,000	0		
			40,000	0
			84,000	0

20th December, 1872.

No. 14 of 1881.

An Ordinance to amend the Ordinance No. 1 of 1870, intituled "An Ordinance relating to the Fixed Civil Establishments of the Colony."

Preamble.

WHEREAS it is expedient to make provision for the prospective discontinuance of the annual salaries and allowances for ecclesiastical purposes which are appropriated and payable under the provisions of the Ordinance No. 1 of 1870, intituled "An Ordinance relating to the Fixed Civil Establishments of the Colony:" **Be it** enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Digitized by Google

1 All salaries and allowances which are appropriated and payable under and by virtue of the said Ordinance to the Bishop and other ecclesiastical persons in the Church of England and to the chaplains of the Presbyterian Church shall be continued to be paid to the persons who at the time of the passing of this Ordinance shall hold the said offices respectively, so long as they shall hold their respective offices and duly perform the duties thereof, but upon and immediately after any vacancy occurring in any of the said offices then, except as hereinafter excepted, the salary or allowance appropriated to such office shall cease and be no longer payable out of the Colonial Treasury. Salaries, &c., payable to ecclesiastical establishment to continue to be paid to existing officers as long as they hold office, and to cease thereafter.

2 If any vacancy shall occur in any of the said offices before the first day of July, 1886, the salary or allowance appropriated and payable in respect of such office shall, until the said first day of July, 1886, but no longer, be paid to trustees lawfully appointed or to be appointed of the church to which the office so vacated shall belong, in trust for the said church. If office falls vacant before first of July, 1886, such salary to be paid to trustees until that date, but no longer.

21st December, 1881.

No. 3 of 1870.

An Ordinance to amend the Laws of Marriage in the Kandyan Provinces.

(As amended by No. 9 of 1870.)

(See No. 9 of 1870 and No. 10 of 1892.)

WHEREAS it is expedient to amend the laws of marriage in the Kandyan provinces of this island: It is therefore hereby enacted as follows: Preamble.

1 This Ordinance may be cited for all purposes as "The Amended Kandyan Marriage Ordinance, 1870." Short title.

2 This Ordinance shall come into operation on such day as the Governor shall, by Proclamation, appoint.* Commencement.

3 The Ordinances set out in the schedule A hereto are hereby repealed, except so far as respects rights which shall have accrued, acts which shall have been done or shall have been declared valid, and all proceedings or matters which shall have taken place before this Ordinance shall come into force, and except so far as such repeal would be inconsistent with the provisions of this Ordinance. Repeal of former Ordinances.

4 The following words and expressions in this Ordinance shall have the meaning hereby assigned to them, unless there is something in the subject or context repugnant to such construction: Interpretation clause.

The expression "Kandyan provinces" shall mean the provinces enumerated in the schedule B hereto annexed: "Kandyan provinces."

The word "marriage" shall mean marriage contracted by and between residents in the Kandyan provinces, other than marriages under the Marriage Ordinances in force in the Maritime provinces of this island, or marriages between persons commonly known as "Marriage."

* Proclaimed the 1st day of January, 1871.

Digitized by Google

Europeans or their descendants, or persons commonly known as Burghers, or marriages between any such persons and any Sinhalese (whether of the Maritime or Kandyan provinces), or marriages between persons professing the Mohammedan faith.

Department.

Division of Kandyan provinces into districts.

5 It shall be lawful for the Governor, with the advice of the Executive Council, by Proclamation, to divide the Kandyan provinces into districts, for the purposes of the registration of marriages under this Ordinance, and from time to time to alter and amend such division : Provided that the division made under the Ordinance No. 13 of 1859 shall continue in force until the same shall be so altered.

Appointment of Registrar-General, provincial registrar, and district registrar.

6 For the purposes of this Ordinance, the Registrar-General, appointed under the Marriage Ordinances in force in the Maritime provinces, shall also be and act as Registrar-General, the government agent of any existing province which includes within its limits any portion of the old Kandyan provinces shall be and act as provincial registrar for such portion as aforesaid, and the assistant government agent of each district which includes within its limits any portion of such old Kandyan province shall be assistant provincial registrar for such portion as is last aforesaid. It shall further be lawful for the Governor from time to time to appoint one or more registrars for each district into which the Kandyan provinces may be divided under the preceding section, and such registrars so appointed at pleasure to remove : Provided that the provincial registrar shall also be deemed to be and shall exercise the powers of registrar in every such district as shall belong to his revenue province as government agent, and the assistant provincial registrar shall also be deemed to be and shall exercise the powers of registrar in every such district as shall belong to his revenue district as assistant government agent: Provided further, that the persons heretofore appointed registrars for districts under the Ordinance No. 13 of 1859 shall continue to act (at pleasure as aforesaid) as such under the present Ordinance.

Residence and office of district registrars.

7 Each registrar (other than the provincial and assistant provincial registrars) shall dwell within the district of which he is registrar, and shall cause his name and office to be placed in some conspicuous place, in the English and Sinhalese languages, on or near the outer door, of the house appointed by the government agent as the office of the registrar of that district.

Marriages before the Ordinance No. 13 of 1859.

Marriages contracted before the Ordinance No. 13 of 1859 declared valid.

8 All marriages contracted in any district before the Ordinance No. 13 of 1859 came into operation in such district shall be deemed to have been valid, if they were contracted according to the laws, institutions, and customs in force amongst the Kandyans at the time of the contract.

Digitized by Google

Kandyan Marriages.

9 It shall be lawful for the provincial registrar or the assistant provincial registrar, in his capacity as district registrar, and he is hereby required, on being applied thereto by the parties, to register any such marriage, if it be shown to his satisfaction that the same was contracted according to the laws, institutions, and customs in force amongst the Kandyans at the time of the contract, and that the man and woman, parties to such marriage, have respectively no other wife or husband living except the wife or husband with whom they desire to register their marriage.

Registration of such marriages.

10 The registrations of such marriages heretofore made by registrars without the legal proof of marriage required by the 19th section of the Ordinance No. 13 of 1859 shall be deemed good and valid registrations, anything in the said section of the Ordinance to the contrary notwithstanding.

Certain past registrations made valid.

Marriages since the Ordinance No. 13 of 1859.

11 Except as is hereafter provided, no marriage contracted since the Ordinance No. 13 of 1859 came into operation, or to be hereafter contracted, shall be valid unless registered in manner and form as is hereinafter provided in the presence of any registrar for the district where such marriage is contracted, and at the appointed office of the registrar, or at such other place as the provincial or assistant provincial registrar shall, in any special case, direct and appoint.

Marriage not valid unless registered.

12 No such marriage shall be valid to which the male party is under sixteen years of age, or the female under twelve years of age; but if the parties shall have continued to cohabit as husband and wife for one year after they shall have attained these ages respectively, or if a child shall have been born to them during the non-age of both or either of them, such marriage shall, in either case, cease to be impeachable and invalid on the ground of non-age.

What deemed full age.

13 The father, if living, of any male under eighteen years of age not being a widower, and of any female under sixteen years of age not being a widow; or, if the father shall be dead, the mother; or if both father and mother shall be dead, the guardian or guardians of the party so under age, or one of them, shall have authority to give consent to and to forbid the registering of such marriage in respect of such party; and such consent is hereby required for the marriage of such party so under age. In case any party whose consent is hereby made necessary as aforesaid to the marriage of such party or parties shall be *non compos mentis*, or in parts beyond the island, or shall, without good reason, withhold his or her consent, then it shall and may be lawful for the person desiring to marry to apply to the provincial registrar or assistant provincial registrar, who is hereby empowered, after summary inquiry, to give or withhold his consent, as to him shall appear right; then no consent shall be deemed to be required: Provided that after any marriage shall have

Consent.

Digitized by Google

been contracted it shall not be necessary in support of any such marriage to give any proof of the consent of any party whose consent thereunto is required by law; nor shall any evidence be given to prove the contrary in any suit touching the validity of such marriage.

Consanguinity.

14 No such marriage shall be valid where either party shall be directly descended from the other; or where the female shall be the sister of the male, either by the full or the half blood, or the daughter of his brother or of his sister by the full or the half blood, or a descendant from either of them, or the daughter of his wife by another father, or his son's, or grandson's, or father's, or grandfather's widow; or where the male is the son of the brother or sister of the female by the full or half blood, or a descendant from either of them, or the son of her husband by another mother, or her deceased daughter's, granddaughter's, mother's, or grandmother's husband; and any marriage or cohabitation between parties standing towards each other in any of the above-enumerated degrees of relationship shall be deemed to be an act of incest, and shall be punishable with imprisonment, with or without hard labour, for a period not exceeding one year.

Incest.

Notice of marriage.

15 In every case of intended marriage each of the parties shall give notice of such intention to some registrar of the district in which he or she shall have dwelt for not less than twenty-one days then next preceding, and every such notice shall set forth fully and truly all the names of each such party, and the names (where they shall be different) by which they are commonly known, and their respective places of abode and whether the marriage is to be contracted in Bina or Diga, and shall be substantially according to the form in the schedule C hereto; and every registrar is hereby required to give gratis a form of such notiee to each party applying for the same; and every party giving such notice shall subscribe his or her signature or mark to the same, in the presence of two or more witnesses who shall be known to him or her: Provided that in all cases of marriage intended to be registered, where both of the parties shall be resident in the same district, one notice subscribed by both the parties shall be sufficient.

Registrar to file notice.

16 The registrar shall, on receiving such notice as aforesaid, forthwith file such notice, and keep it with the records of the office, and shall at the same time enter a fair copy of it in a book to be called "The Marriage Notice Book."

Publications of notice.

17 The registrar shall cause publication of every such entry of notice to be made within seven days after such entry, by affixing a copy thereof at some conspicuous place in his office, and by continuing the same so affixed for at least fourteen days; and every person wilfully removing, altering, defacing, or destroying any such copy so affixed, within such period, shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding five pounds.

Digitized by Google

18 If the registration of any marriage shall be forbidden, the registrar shall forthwith make report thereof to the provincial or assistant provincial registrar, and shall suspend such registration until it shall have been decided whether such marriage ought to take place or not; on the receipt of such report it shall be the duty of such provincial or assistant provincial registrar to issue notices to the person who forbade the intended marriage, and to the parties intending to marry, to appear, with their witnesses, on a day to be named in such notice, and which shall not be more than seven days from the day of the receipt of the report. On the day named, or any other day to which the said provincial or assistant provincial registrar shall, for good cause shown, adjourn the inquiry, he shall, after hearing the parties and, if need be, their witnesses, decide whether such marriage shall take place or not. If he shall decide that the marriage shall not take place, then the notice of marriage and all proceedings thereupon shall be null and void; and if he shall decide that there exist no grounds for stopping such marriage, then the notice of marriage and all other proceedings relating thereto shall be held to be valid and sufficient, and the district registrar shall forthwith, or as soon as twenty-one days shall have elapsed since the entry of notice of marriage as aforesaid, register such marriage.

Proceeding where the marriage is forbidden.

19 No registrar shall register any marriage except at the office of the registrar, or such other place as may be appointed in pursuance of the provision in section 11, nor except between the hours of eight in the morning and six in the afternoon.

Marriage where and when registered.

20 The registrar by whom any marriage is to be registered under this Ordinance shall ask of the parties to be married the several particulars required to be registered touching such marriage, that is to say, their names, age, rank or calling, residences at time of the marriage, the nature of the marriage (whether contracted in Diga or in Bina). Nothing appearing to hinder the registration of the marriage, the registrar shall, in the presence of the witnesses, say to the man in the language of the parties, and causing him to take the woman by the hand:

Particulars to be asked of the parties.

"Do you take this woman to be your wedded wife?"

On the man answering in the affirmative, the registrar shall say to the woman in the language of the parties, and causing her to take the man by the hand:

"Do you take this man to be your wedded husband?"

And on the woman also answering in the affirmative, the registrar shall forthwith proceed to register, in duplicate, in two of the marriage register books, the several particulars relating to such marriage, substantially according to the form D in the schedule hereto, and shall sign every such entry himself, and shall cause the parties married and two witnesses to sign, or, if they cannot sign, to affix their mark thereto. Every such entry shall be made in the same order from the beginning to the end of each book, and the number

As to the form of and particulars to be entered into the books of registry.

Digitized by Google

of the place in each duplicate marriage register book shall be the same, and a copy of such entry shall be furnished to each of the parties to such marriage, at the time of the said marriage, with the certificate in schedule E hereto.

Power to refuse to register marriage.

21 In all cases where the registrar ascertains, or has good reason to believe, that any marriage proposed to be registered will be void, it shall be lawful for him to refuse to register such marriage, but he shall in that case forthwith refer the matter to the provincial or assistant provincial registrar, to whom it shall be competent, after due inquiry made, and if he see fit, to register such marriage, or to cause the same to be registered by the registrar for the district.

Registration of future marriages omitted to be registered.

22 Any person contracting such marriage which, without fault of the parties to the marriage, may have been omitted to be registered, or may have been erroneously registered, may at any time before any suit in respect of such marriage, or property affected thereby, or after suit, demand to have such marriage correctly registered; and the registrar of whom such registration is demanded shall refer such question also to the provincial or assistant provincial registrar, to whom it shall be competent, after due inquiry, to register such marriage or to cause the same to be registered by the registrar for the district.

Dissolution of Marriages.

Dissolution of marriage.

23 The following shall be the grounds for granting a dissolution of marriage:

(1) Adultery by the wife after marriage:
(2) Adultery by the husband, coupled with incest or gross cruelty:
(3) Complete and continued desertion for two years:
(4) Inability to live happily together, of which actual separation from bed and board for a year shall be the test:
(5) Mutual consent:

Either party who has a right to apply for such dissolution on the 1st, 2nd, 3rd, and 4th grounds, or both parties who may desire to apply on the 5th ground, may make such application to the provincial registrar or assistant provincial registrar, and if such provincial registrar or assistant provincial registrar shall, upon inquiry, be satisfied of the existence of good cause for the dissolution of marriage, he shall order such dissolution, and make an entry thereof in substantially the form F to the schedule hereto annexed in a book to be called "The Register of Dissolutions," to be by him kept for that purpose in the registry of the said district; and the marriage of the parties shall from that time be held to be dissolved, without prejudice, however, to the children of such marriage born subsequent to its dissolution. If the parties to such dissolution shall have agreed upon any compensation to be made to either or both, owing to such dissolution, it shall be the duty of the provincial or assistant provincial

Digitized by Google

registrar to enter the same in the register of dissolutions; and the entry so made shall have all the effect of the order or decree of a competent court and may be enforced as such.

24 And whereas it is made manifest that parties to unions which were declared valid by section 28 of the Ordinance No. 13 of 1859 have, from ignorance of the provisions of the said Ordinance, separated from each other since that Ordinance came into operation, and have caused marriages to be registered between them and others, without having previously obtained a decree of divorce from the district court, as required by that Ordinance, and it is expedient to save them and the issue of the subsequent connection from the consequences of such their acts, so far as the same can be legitimately done: It is enacted that in all cases in which either party to an existing marriage under the said section 28 of the said Ordinance, and not dissolved by the decree of a district court as required by section 30 thereof, has registered another marriage either as "existing" or "future," mutual consent to the dissolution of the existing marriage shall be presumed, and such registration shall be held to operate also as a dissolution of their previous existing marriage; and the registered marriage shall be deemed to be and to have been valid, and the issue thereof legitimate, whether procreated before or after registration.

Case of parties to existing marriages who, from ignorance, have registered marriages with others without obtaining a decree from the district court.

25 In all cases where a marriage has been contracted since the Ordinance No. 13 of 1859 came into force, according to the laws, institutions, and customs in force in Kandy before that date, and which is void in consequence either of the want of registration or of invalid registration, such marriage shall be deemed and taken to have been a good and valid marriage, and to operate as a dissolution of any former marriage: Provided that no person who shall have heretofore lawfully come into possession of any property, movable or immovable, by reason of the non-registration or of the invalid registration of any marriage, shall be dispossessed thereof, and that the rights of such person, and of all others claiming under him, shall not be in any way affected by reason of such marriage being by this Ordinance made good and valid.

Marriages void owing to non-registration or invalid registration, are made valid.

Proviso.

General Provisions.

26 Any marriage which shall be contracted during the life of a former husband or wife shall for all purposes be illegal and void, except where the party to such second marriage shall have been divorced from the bond of the first marriage, or where the first marriage shall have been declared void by the decree of some competent court.

Polygamy, &c., illegal.

27 Any person resident in the Kandyan provinces, being married, who shall marry any other person during the life of the former husband or wife, whether the second marriage shall have taken place in such Kandyan provinces or elsewhere, and every person counselling, aiding, and abetting such offender, shall be guilty of an offence, and being convicted thereof shall be liable to be imprisoned, with or

Penalty on polygamy, &c.

Digitized by Google

Where polygamy may be punished.

without hard labour, for a period not exceeding three years; and any such offence may be dealt with, inquired of, tried, determined, and punished in the district where the offender shall be apprehended or be in custody, as if the offence had been actually committed in that district: Provided always that nothing herein contained shall extend to any second marriage contracted out of Ceylon by any other than a subject of Her Majesty, or to any person marrying a second time whose husband or wife shall have been continually absent from such person for the space of seven years then last past, and shall not have been known by such person to be living within that time, or shall extend to any person who at the time of such second marriage shall have been divorced from the bond of the first marriage, or to any person whose former marriage shall have been declared void by the sentence of any court of competent jurisdiction.

Suspension and dismissal of district registrar

28 The provincial registrar is empowered to suspend any registrar for any breach or neglect of duty or other act that he may deem deserving of suspension; and on suspending any registrar he shall immediately report the suspension and the reasons thereof to the Governor; and the Governor, with the advice of the Executive Council, shall have power to remove such suspension, or to continue the same for a period, or to dismiss him.

Penalties for certain acts of registrars.

29 Any registrar carelessly losing or injuring any register book, or carelessly allowing a register book to be injured while in his keeping, or registering any marriage before all or any of the formalities or matters required by this Ordinance have been duly complied with, or contrary to any of the provisions of this Ordinance, or neglecting to perform any duty hereby imposed upon him, and for which no punishment is otherwise specially provided, shall be liable to a fine not exceeding twenty pounds. Any registrar wilfully destroying or injuring any register book, or wilfully permitting or causing any such book to be destroyed or injured, or falsely making or counterfeiting, or permitting or causing to be falsely made or counterfeited, any part of a register book, or wilfully inserting or permitting or causing to be inserted, in any register book, or certified copy thereof, any false entry, or wilfully giving a false certified copy of a register book, or permitting or causing any such false certified copy to be given, or certifying any writing to be a copy or extract of a register book, or permitting or causing such false certified copy to be given, or certifying any writing to be a copy or extract of a register book, knowing the said portion so copied or extracted to be false in any part thereof, shall be guilty of an offence, and be liable on conviction to imprisonment, with or without hard labour, for a period not exceeding seven years: Provided that nothing herein contained shall be held to absolve the registrar from any civil responsibility in damages to any person who may be aggrieved in consequence of any negligence, irregularity of proceeding, abuse of authority, or other act of commission or omission on his part.

Proviso.

Digitized by Google

Kandyan Marriages.

30 Every marriage registered under the provisions of this Ordinance shall render legitimate any children who may have been procreated by the parties thereto previous to their intermarriage, and such children shall become and be entitled to the same and the like rights as if they had been procreated by the said parties subsequent to their intermarriage.

Children legitimatized by subsequent marriage of parents.

31 Nothing in the Ordinance No. 6 of 1847,* intituled "An Ordinance to amend in certain respects the law of Marriages, and to provide for the better registration of Marriages, Births, and Deaths," or in any other Ordinance relating to marriages in the Maritime provinces, shall be deemed to extend or to have at any time extended to marriages contracted in the Kandyan provinces by residents thereof according to the laws, manners, and customs existing and in force amongst the Kandyans.

No. 6 of 1847, &c., of no force in Kandyan provinces.

32 Whenever it shall be necessary for provincial and assistant provincial registrars to make any inquiry under the provisions of this Ordinance, it shall be lawful for them, and they are hereby empowered, to enforce the attendance of any persons whom they may desire to examine by summons and warrant, and to examine them on oath; and any person failing or refusing to attend, or having attended refusing to be sworn, or to give information, or giving false information, shall be guilty of an offence, and shall be liable to a fine not exceeding ten pounds, or to imprisonment, with or without hard labour, for any period not exceeding one year, or to both; and it shall be lawful for the provincial registrar or assistant provincial registrar to order the payment of any fine to be made in the police court of the district in which such person resides; and if such payment shall not be made as directed, the said police court shall proceed to enforce the same, and the charges relating to the recovery thereof, and to deal with the person liable to make the same in such manner as if the said fine had been imposed by such court.

Provincial and sub-provincial registrars empowered to enforce attendance and evidence of persons to be examined.

Register Books, Extracts, Returns, &c.

33 The provincial registrar shall cause to be printed a sufficient number of books for making entries of notices and marriages and dissolutions, according to the forms in the schedule hereto; and such register books shall be of durable materials, and in them shall be printed on each side of every leaf the heads of information herein required to be known and registered; every page of each book shall be numbered progressively from beginning to end, beginning with number one; and every place of entry shall be also numbered from the beginning to the end, beginning with number one, and every entry shall be divided from the following entry by a printed line. Each registrar shall be furnished with books of registry in duplicate, and a sufficient number of forms of certified copies thereof, according to the forms in the schedule to this Ordinance annexed.

Register books.

* Repealed by Nos. 1 and 2 of 1895.

Digitized by Google

Duplicates, extracts, and returns to be made by registrars to the provincial registrar.

34 Each registrar shall in the months of January, April, July, and October respectively, make and deliver to the provincial or assistant provincial registrar a true copy, certified by him under his hand, as in schedule G hereto annexed, of all the entries of marriages in the registry book kept by him since the last certified copy. If there shall be no marriage entered in a register book before the first day of the above-mentioned months, after this Ordinance shall have been brought into operation in any particular districts, or in subsequent periods since the last certified copy, the registrar shall at the time aforesaid certify the same under his hand to the provincial or assistant provincial registrar.

Provincial registrar may inspect books and amend errors.

35 It shall be lawful to the provincial registrar or assistant provincial registrar to inspect the registry books from time to time, and to cause any mere clerical errors therein, or in any copy furnished to him, to be amended.

Books how disposed of.

36 The registrar shall keep the marriage book safely, in duplicate, and when the register books are filled the registrar shall deliver one of the books to the provincial registrar or assistant provincial registrar, and the other he shall keep safely in the place appointed as his office.

The Governor to make regulations.

37 It shall be lawful for the Governor from time to time, with the advice of the Executive Council, to make regulations for the direction of the registrars in the discharge of their duties, and for the maintenance of such officers or establishments as may be necessary thereto, and from time to time to amend the forms given in the schedules to this Ordinance annexed.

Inspection and copies of registry books, &c.

38 Every person claiming interest in any marriage shall be entitled at all reasonable hours to inspect the books of the registrar on payment of threepence, and to obtain a certified copy of any entry therein on payment of sixpence.

Entries in registry to be the best evidence.

Presumption if registry silent as to nature of marriage.

39 The entry as aforesaid in the register of marriages and in the register of divorces shall be the best evidence of the marriage contracted or dissolved by the parties, and of the other facts stated therein. If it does not appear in the register whether the marriage was contracted in Bina or in Diga, such marriage shall be presumed to have been contracted in Diga until the contrary be shown.

SCHEDULE.

A (Section 3).

Ordinance No. 13 of 1859, entitled "An Ordinance to amend the Laws of Marriage in the Kandyan Provinces."

Ordinance No. 4 of 1860, entitled "An Ordinance to alter and amend a certain Proclamation, dated the 30th June, 1860."

Ordinance No. 8 of 1860, entitled "An Ordinance to give effect to certain rules and orders made under the Ordinance No. 13 of 1859."

Ordinance No. 8 of 1861, entitled "An Ordinance to amend the Ordinance No. 13 of 1859."

Ordinance No. 14 of 1866, entitled "An Ordinance relating to Kandyan Marriages."

Digitized by Google

Kandyan Marriages.

B (Section 4).

The Central Province.	
Seven Korales	North-Western Province.
Demalapattu of Puttalam	North-Western Province.
The Uda, Palle, and Radda Palatas of Bintenna; the Vannames of Nadene, Nadukadu, and Akkaraipattu; the Sinhalese villages in the division of Panawa—all in the Batticaloa district; Tamankaduwa; the Sinhalese villages in the Kaddukulam pattu, in the district of Trincomalee	Eastern Province.
Sabaragamuwa	Western Province.
Four and Three Korales and Lower Bulatgama...	Western Province.
Yakawala, in the Southern Province.	
Nuwarakalawiya, in the Northern Province.	
All Sinhalese villages in the Mannar district.	

[*No. 9 of 1870*]

Form C (Section 15).

Notice of Marriage.

To the Registrar of Marriages in the District of *Gampola*.

I hereby give notice that a marriage is intended to be had within three months from the date hereof between me and the other party herein named and described; (that is to say,)

Name.	Rank or Calling.	Age.	Dwelling Place.	District in which the other party resides, when the parties dwell in different Districts.
Tikiri Banda ...	*Agriculturist.*	*25 years*	*Teldeniya*	—
Kiri Menika ...	—	*16 years*	*Dumbara*	—

Form D (Section 20).

Form of Entry in Marriage Register Book.

No.	Date of Marriage.	Name in full.	Age.	Rank or Calling.	Residence at time of Marriage.	Name of Father in full.	Whether Marriage in Bina or Diga.
—	*1870 May 30*	*Tikiri Banda*	*25 years*	*Agriculturist*	*Teldeniya*	—	*Diga*
		Kiri Menika	*16 years*	—	*Dumbara*		

This marriage was entered into between us { *Tikiri Banda* / *Kiri Menika* + } in the presence of { *Kiri Appu.* / *Kalu Menika.* }

Digitized by Google

Form E (Section 20).

Form of Certificate to be appended to copies of entries furnished to private individuals.

I, *Punchi Appuhami*, registrar of the *Kandy* district, in the *Central* Province, do hereby certify that this is a true copy of the entry of the marriage of *A. B.* and *C. D.*, therein mentioned.

Witness my hand this *First* day of *August*, A.D. *One thousand Eight hundred and Sixty-nine.*

———

(*Signature of Registrar.*)

[Note.—The words and figures in *italics* are to be filled up as the case may be.]

Form F (Section 23).

Form of Dissolution of Marriage.

I hereby order that the marriage between *A.* and *B.* (*describe registry, if any, or how marriage contracted*) be dissolved on the following ground ; to wit (*here insert ground*).

I certify that, according to the representations of the parties, they have had during their marriage ——— children, as follows : (*name and age*).

I further certify that the parties have agreed that the following compensation shall be made (*describe compensation agreed to*).

This order is registered in Registry of Dissolution (*give number, page, and district*).

This ——— day of ———, 18—.

A. B.,
Provincial Registrar.

Form G (Section 34).

Form of Certificate to be forwarded with the certified copy to the Provincial Registrar.

I, *Punchi Appuhami*, registrar of the *Kandy* district, in the *Central* Province, do hereby certify that this is a true copy of the entries of marriage registered in my office from the entry of the marriage of *A. B.* and *C. D.*, number *one*, to the entry of the marriage of *E. F.* and *G. H.*, number *fourteen.*

Witness my hand this *Second* day of *October, One thousand Eight hundred and Seventy.*

———

(*Signature of Registrar.*)

12th January, 1870.

No. 9 of 1870.

An Ordinance to amend the Ordinance No. 3 of 1870.

Preamble.

WHEREAS it is expedient to amend the Ordinance No. 3 of 1870, entitled " An Ordinance to amend the Laws of Marriage in the Kandyan Provinces :" It is enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows :

Sinhalese villages in Mannar

1 All Sinhalese villages in the Mannar district of the Northern Province are hereby added to the places enumerated in schedule B to

Digitized by Google

the said Ordinance annexed, and the provisions of the said Ordinance shall apply to those villages as if they were originally inserted in the said schedule. district added to schedule B of the Ordinance No. 3 of 1870.

2 This Ordinance and the Ordinance No. 3 of 1870 shall be read and construed as if they formed one Ordinance. This Ordinance and No. 3 of 1870 to be deemed one.

3 This Ordinance shall come into operation on the first day of January, 1871. Commencement of Ordinance.

29th December, 1870.

No. 10 of 1892.

An Ordinance relating to the registration of Marriages, Births, and Deaths.

WHEREAS doubts have arisen as to the legality of the registration of marriages, births, and deaths in this colony, and it has become expedient to remove such doubts: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1 The solemnization and registration of all marriages, and the registration of all births and deaths, which shall have occurred up to the date of the coming into operation of this Ordinance, shall be as valid and effectual for all purposes intended by, or relating to, or connected with the provisions of the Ordinances No. 6 of 1847,* No. 13 of 1863,† No. 8 of 1865,† No. 18 of 1867,‡ No. 3 of 1870, and No. 9 of 1870, as if each and every of the registration districts had been duly established under the said Ordinances, and as if every person who had held, or who at the date of the coming into operation of this Ordinance is holding, the office of registrar of marriages, or the office of registrar of births and deaths, had been duly appointed registrar of marriages and registrar of births and deaths respectively. Irregular registration declared valid.

2 Every entry appearing in the books kept or purported to be kept in conformity with the provisions of the said Ordinances No. 6 of 1847, No. 13 of 1863, No. 8 of 1865, No. 18 of 1867, No. 3 of 1870, and No. 9 of 1870, shall be deemed to be valid and effectual for the purposes of the said Ordinances. Entries in registration books declared valid.

3 Nothing in this Ordinance contained shall give any validity— Saving clause.

(*a*) To the solemnization or registration of any marriage, or the registration of births and deaths, except so far as relates to defects thereof caused by the non-establishment, imperfect establishment, or accidental abolition of any registration district, or by the irregular appointment or non-appointment of any person acting or purporting to act as registrar; or

(*b*) To any marriage that may heretofore have been declared invalid by a competent court; or

(*c*) To any marriage invalid by reason of the non-establishment, imperfect establishment, or accidental abolition of any registration district, or of the irregular appointment or non-appointment of any person acting or purporting to act as registrar, when the parties or either of them have or has subsequently contracted a valid marriage.

4 This Ordinance may be cited for all purposes as "The Marriages, Births, and Deaths Registration Amendment Ordinance, 1892," and it shall come into operation from and after such date as the Governor shall appoint by Proclamation published in the *Government Gazette*. Short title.

11th October, 1892.

* Repealed by Nos. 1 and 2 of 1895. † Repealed by No. 2 of 1895.
‡ Repealed by No. 1 of 1895.

Digitized by Google

No. 4 of 1870.

An Ordinance to define the Services due by the Praveni Tenants of Wiharagama, Dewalagama, and Nindagama Lands, and to provide for the Commutation of those Services.

Preamble.

WHEREAS by an Order of his late Majesty King William the Fourth in Council, bearing date the Twelfth day of April, 1832, the liability of the native and Indian inhabitants of this island to render various services to the Government in respect of the tenure of their lands, or in respect of their caste or otherwise, was abolished, but it was thereby provided that nothing therein contained should be construed to affect the services to which the tenants of any lands in any royal villages in the Kandyan provinces were bound to render so long as they continued tenants of such lands upon such tenures, or the services which the tenants of any lands in any temple villages in the said Kandyan provinces were bound to render to any temple so long as they continued tenants of such lands, or the services which the tenants of lands in any other villages in the said Kandyan provinces were bound to render to the proprietors of such villages so long as they continued tenants of such lands: And whereas the enforcement of services for lands in the royal villages has been long since abandoned by the Government, and there is much in the nature of the services which are still retained which is repugnant to the constitution of the colony, and which tends to check its advancement and improvement, and it is desirable to take steps to encourage their commutation: It is hereby enacted as follows:

Short title.

1 This Ordinance may be cited for all purposes as "The Service Tenures Ordinance, 1870."

2 Has had its effect.*

Interpretation clause.

3 The following words and expressions in this Ordinance shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant to such construction:

The word "temple" shall include wihara and dewala:

The expression "praveni pangu" shall mean an allotment or share of land in a temple or nindagama village held in perpetuity by one or more holders, subject to the performance of certain services to the temple or nindagama proprietor:

The expression "maruwena pangu" shall mean an allotment or share of land in a temple or nindagama village held by one or more tenants at will:

* Proclaimed the 1st day of February, 1870.

Digitized by Google

The expression "wiharagama proprietor" or "dewalagama proprietor" shall include the officer of any wihara or dewala respectively entitled to demand services from any praveni nilakaraya or maruwena nilakaraya, for and in respect of a praveni pangu or maruwena pangu held by him:

The expression "nindagama proprietor" shall mean any proprietor of nindagama entitled to demand services from any praveni nilakaraya or maruwena nilakaraya, for and in respect of a praveni pangu or maruwena pangu held by him:

The expression "praveni nilakaraya" shall mean the holder of a praveni pangu in perpetuity, subject to the performance of certain services to the temple or nindagama proprietor :

The expression "maruwena nilakaraya" shall mean the tenant at will of a maruwena pangu :

The expression "government agent" shall include the assistant government agents of the revenue districts into which the province may be divided, and to which said revenue districts the village or villages thereof in which services are to be defined under this Ordinance may belong.

I.—*Department and Officers.*

4 It shall be lawful for the Governor to appoint one or more persons, not exceeding three in number, to be the commissioner or commissioners for each district specified in such appointment, for carrying into effect the provisions of this Ordinance, and for executing the several powers hereby conferred upon him or them, and to appoint such clerks or other ministerial officers as to him may appear necessary, and to direct to be paid out of the colonial treasury to such commissioners, clerks, and other officers, or any of them, such reasonable remuneration as to the Governor, with the advice of the Executive Council, shall seem fit. The powers and duties hereby conferred and imposed upon the commissioners may be exercised and performed by any one of them.

Governor to appoint commissioners to carry this Ordinance into effect.

Clerks and other ministerial officers.

Any one commissioner competent to act.

5 Every such commissioner shall, before proceeding to execute any of the powers and duties hereby conferred and imposed upon him, take and subscribe the oath of allegiance and the official oath.

Oath.

6 No such commissioner, clerk, or other officer shall be capable, whilst such commission is being held, of being a purchaser, either in his own name or in the name or names of any other person, of any lands belonging to any temple or nindagama proprietor or praveni pangukaraya.

Commissioner not to be purchaser of land.

7 The proceedings of the commissioners in the investigation of any claims and in the settlement of any disputes in virtue of the provisions of this Ordinance shall be carried on, and the decisions and orders of such commissioners shall be reduced to writing and shall be pronounced and declared with open doors.

Proceedings of commissioners to be with open doors.

Digitized by Google

II.—*Investigation and Settlement of Claims.*

Commissioners to call upon headmen and temple and nindagama proprietors for lists of pangus held by them.

8 So soon as reasonably may be after this Ordinance shall come into operation, the commissioners appointed by virtue hereof for any district shall cause notice to be published in any village in such district specified in the notice, calling upon the headmen of such village or district, and upon the wiharagama, dewalagama, and nindagama proprietors of all praveni or maruwena pangus in such village, to produce or forward to them at such times and places as they shall appoint a list of all the praveni or maruwena pangus held by such proprietors. with an enumeration of the services in detail of the praveni pangus, setting forth the names (so far as the same can be ascertained) of the proprietors and holders and the nature and extent of the services due for each praveni pangu: Provided that it shall be lawful for any proprietor, instead of producing or transmitting such lists, to state verbally to such commissioners the particulars of his claim; and it shall be the duty of such commissioners thereupon to take down in writing such particulars, and to require such person to sign the same, or, in case of inability, the same shall be signed by the commissioner by whom such claim has been reduced to writing.

Notice by commissioners that they will inquire into claims, and calling upon all parties interested to appear.

9 It shall be the duty of the commissioners, within a reasonable time after the expiration of the time fixed in such notice for the receipt of the lists from the wiharagama, dewalagama, and nindagama proprietors, to cause further notice to be published in such village of their intention to inquire, on a day to be named in such notice, into the nature of the tenure of each pangu therein subject to service, whether it be praveni or maruwena, and into all claims for services in respect of the praveni pangus in such village, and calling upon all proprietors and nilakarayas and persons claiming interest in the pangus in such village, for or in respect of which services may be due, whether as praveni nilakarayas or by maruwena nilakarayas, to appear before them at the place and on the day and days named in such notice, with a view to such inquiry. It shall further be the duty of the commissioners to cause personal notice to be served on all proprietors and nilakarayas of such intention, and if personal notice cannot be served owing to the absence of any of them from such village or district, then to cause notice to be left at the known place of abode, and, if practicable, with some adult member of his family. The commissioners shall also serve on the holders of each pangu, with such notice, a copy of particulars touching such pangu furnished by the proprietors and headmen.

Personal notice.

Copy of particulars.

Commissioners to inquire into claims.

10 On the day appointed in such notice the commissioners shall enter into their inquiries, and shall then, or on such other early day as they shall then and there from time to time publicly appoint, hear, try, and determine as follows:

(1) The tenure of each pangu subject to service in the village, whether it be praveni or maruwena:

Digitized by Google

Service Tenures.

(2) The names, so far as the same can be ascertained, of the proprietors and holders of each praveni pangu :

(3) The nature and extent of the services due for each praveni pangu :

(4) The annual amount of money payment for which such services may be fairly commuted at the time the registries are made.

And their determination shall be final and conclusive in that or any future proceeding, whether before the said commissioners or any other judicial tribunal, as to the tenure of the pangus in such village, whether it be praveni or maruwena, the nature of the service due for and in respect of each praveni pangu, and the annual amount of money payment for which the services due for each praveni pangu may be fairly commuted at the time those registries are made.

Their determination shall be final.

Registries of claims.

11 So soon as the commissioners shall complete their inquiry into the claims in any village, they shall cause to be numbered and entered in a book of registry a list of praveni pangus in such village, and shall further cause to be entered the names, so far as the same can be ascertained, of the proprietors and tenants of each pangu, the nature and extent of the services due for such pangu, and the annual amount of money payment for which such services may be fairly commuted at the time the registry is made, and shall duly sign such registry and transmit the same to the kachcheri of the district. It shall be the duty of the government agent to cause all these registries to be safely kept and preserved in such kachcheri, and to grant inspection and certified copies thereof on the application (written on a stamp of two shillings) of parties interested in such inquiry ; and registries and certified copies, signed by the government agent, shall form thereafter the best evidence of the tenure of each pangu, of the nature and extent of the services due for such pangu, and the annual amount of money payment for which such services may be fairly commuted at the time the registry is made.

Inspection and certified copies.

Joinder of all the proprietors and holders not necessary.

12 It shall not be necessary for the validity of any proceeding for the investigation and settlement of claims under this Ordinance that all the holders and all the proprietors shall have joined or should be named therein. The finding of the commissioners shall be binding and conclusive as respects only the services due for and in respect of the pangu and the money value of such services, but shall not affect the liability of holders to perform service as between themselves, or the right of proprietors as between themselves to exact such services or their value, in case the services shall have been declared commuted.

Commissioners may limit time and area within which service is to be rendered.

13 It shall be lawful for the commissioners in defining the services to limit the time and area within which personal services may be exacted, and an entry of such limitation when made shall in all cases be entered in the registry.

Digitized by Google

III.—*Commutation.*

Application to commute to be made to commissioners pending commission, or to the agent at close of commission.

14 If any praveni nilakaraya shall be desirous of commuting any service as aforesaid for a money payment, he shall, during the pendency of the commission (and the commission shall be held to be pending until the Governor shall declare it to be at an end by notice in the *Government Gazette*), transmit to the commissioners, and, after the close of the commission, to the government agent of the district in which the praveni pangu is situated, an application in writing to that effect, which application shall set forth the name of the party making it, the name and number of the pangu in respect of which such service may be due, and the name of the village in which the same is situated. If there be more than one praveni nilakaraya in any praveni pangu, the application to commute must be made or acquiesced in by a majority of the entire number of nilakarayas who shall have attained the age of sixteen years. The commissioners or the government agent to whom such application shall be made shall issue a notice to the proprietor of the pangu, informing him that, on a day to be named in such notice, the application will be considered and determined upon. A copy of the application must be served with the notice.

The commissioners or agent to ascertain summarily whether all nilakarayas have joined, and the value of the services.

15 On the returnable day of the said notice the commissioners or government agent to whom such application shall be made shall proceed summarily to ascertain whether the nilakarayas of the pangu who shall have attained the age of sixteen years have all joined or acquiesced in the application and (if three years shall have expired since the date of the registry of the pangu) whether the services may still be fairly commuted at the amount fixed in the registry, or whether they have risen or fallen in value, and to what extent. Having satisfied themselves or himself on this point, they shall proceed to order that the services for and in respect of the land shall stand commuted (if three years shall not have expired since the date of the registry) for the annual money payment appearing in such registry, or (if three years shall have expired since such date) for the same or such other sum as the said commissioners or government agent may consider just or reasonable. The order so made under this section shall be final and conclusive and binding upon all the proprietors and nilakarayas (even though they may not be parties to the application, in that or any future proceeding, whether before the said commissioners, government agent, or any judicial tribunal), as to the liability of the nilakarayas to pay commuted dues and not to render services for such pangu; and all right to service from the nilakarayas of such pangu shall thereupon for ever cease and be at an end, and the said nilakarayas shall be thenceforth liable to pay to the proprietors, in equal half-yearly instalments, the dates whereof shall be fixed by the commissioners or court, the annual amount of money payment due for and in respect of the said services; and such commuted dues shall thenceforth be deemed to be a

Order to commute and for the sum named shall be final.

Commuted dues to be

Digitized by Google

head rent due to the proprietor for and in respect of the pangu, and shall be recoverable in the manner hereinafter prescribed.

thenceforth deemed head rent.

Entry of commutation in registers.

16 The commissioners (if the commission shall be still pending), or (if the commutation shall be ordered by the government agent) the government agent, shall make an entry of the commutation, and of the terms thereof, in the registers of the commission; and the government agent shall allow inspection of such entries and certified copies thereof, on the application (written on a stamped paper of two shillings) of parties interested therein, and such entries or certified copies thereof shall form thereafter the best evidence of the liability of the nilakarayas of the said pangu to pay commuted dues and not to render services for such pangu.

Inspection, entries, and certified copies of registers.

Provision for the payment of tithe to Government, where such tithe is due for any pangu commuted.

17 No commutation of any nindagama pangu, liable to pay tithe to Government, shall have the effect of relieving the pangu from its liability for such tithe as a primary charge thereon: Provided always that no praveni nilakaraya shall be liable to pay both tithe to the Government and the whole of the commuted dues to the proprietor; and provided also that in cases in which the service and the tithe have both been commuted, it shall be competent to the nindagama proprietor, should he desire to do so, to transfer to the holder the payment of the tithe to Government, retaining only the difference, if any, between the commuted tithe and the commuted services.

V.—*General Provisions.*

Commissioners and government agent to be guided by equity, and not bound by the strict rules of law;

18 In the execution of the powers vested in such commissioners or the government agent by virtue of this Ordinance, they shall be guided by equity and good conscience only, and by the best evidence that can or may be procured, although not such as would be required or be admissible in ordinary cases; nor shall they be bound by the strict rules of law in any case, or by any technicalities or legal forms whatever; and it shall be lawful for the said commissioners or government agent, if they think proper, to examine on oath the parties, or any of them, making or opposing any claim investigated or inquired into by such commissioners, touching any of the matters in dispute.

and may examine the parties on oath.

Commissioners, &c., to have powers to summon witnesses.

19 It shall be lawful to and for the said commissioners and government agent from time to time, as they shall see occasion by any writing under their hands, to summon and require any person to appear before them at any time and place in such writing to be appointed, to testify the truth touching any claim or any matter in dispute between any proprietors and tenants, or otherwise relating to the execution of the powers given by this Ordinance, and to produce in evidence all deeds, instruments, surveys, or writings in the possession or control of any such person, in so far as the same shall be necessary for the due investigation of any such claim or dispute, or for enabling the said commissioners and government agent duly to execute the powers given by this

Digitized by Google

Ordinance; and to cause a copy of such writing to be served on such person required to give evidence, or to produce such deeds, instruments, surveys, or writings, or to be left at his usual and last place of abode; and every person so summoned who shall not appear before such commissioners or government agent pursuant to such summons (without assigning some reasonable excuse for not appearing), or appearing shall without sufficient cause refuse to be sworn or examined on oath (which such commissioners or government agent are hereby empowered and required to administer), or shall without sufficient cause refuse or wilfully neglect to produce any such deeds, instruments, surveys, or writings, shall for every such neglect or refusal forfeit and pay such sum of money not exceeding five pounds sterling as such commissioners or government agent shall think fit and order; and it shall be lawful for the commissioners or government agent in such order to direct payment of any such fine to be made into the police court of the district in which such person resides; and if payment should not be made as directed, the said police court shall proceed to enforce the same and the charges relating to the recovery thereof, and to deal with the person liable to make the same in such manner as if the said fine had been imposed by such court.

Penalty for not obeying the summons.

Evidence to be reduced to writing, and signed.

20 All evidence given before such commissioners or government agent shall be taken down in writing in presence of the witnesses respectively giving the same, and shall at the time of their examination be signed by them, or in case of their refusal or inability to sign by the commissioner or government agent by whom the same has been reduced to writing; and if any person shall in any examination, affidavit, or deposition to be had or taken in pursuance of this Ordinance before any such commissioners or government agent, knowingly and wilfully swear to any matter or thing which shall be false, every such person so offending shall be deemed guilty of perjury, and shall on conviction suffer the like pains and penalties as persons guilty of wilful and corrupt perjury are now subject and liable to.

Persons swearing falsely to be deemed guilty of perjury.

Notices how published.

21 All notices required to be given under this Ordinance shall be published in the village referred to in them by beat of tom-tom, once or oftener, by the affixing of copies on some conspicuous places in the village and on the walls of the nearest kachcheri and court house, by being proclaimed once or oftener in the presence of the suitors and others in the court, and by such other means as may secure the greatest publicity thereto. If the notice is directed to any proprietor or nilakaraya, it shall be served personally, or if personal service cannot be secured by affixing the same to his last known place of abode.

Adjournments.

22 It shall be lawful to the commissioners to adjourn their sittings and inquiries once or oftener, if necessary.

Aggrieved persons may apply to the

23 Any person aggrieved with the determination of the commissioners under section 10, or of the commissioners or agent under section 15, shall be entitled to apply to the

Digitized by Google

Governor for relief at any time within one month after such determination shall be made known to him. It shall be lawful for the Governor, with the advice of the Executive Council, upon such application, to confirm the determination of the commissioners or agent, or to alter or modify the same, as to them shall appear right, and to cause his decision to be entered in the register, and such decision, so entered, shall be deemed the determination as respects the pangu to which it relates.

Executive Government for relief.

24 Arrears of personal services in cases where the praveni nilakaraya shall not have commuted shall not be recoverable for any period beyond a year; arrears of commuted dues, where the praveni nilakaraya shall have commuted, shall not be recoverable for any period beyond two years. If no services shall have been rendered, and no commuted dues be paid for ten years, and no action shall have been brought therefor, the right to claim services or commuted dues shall be deemed to have been lost for ever, and the pangu shall be deemed free thereafter from any liability on the part of the nilakarayas to render services or pay commuted dues therefor: Provided, however, that if at the time of such right of action accruing the proprietor shall not be resident within this island, or if by reason of his minority or insanity he shall be disabled from instituting such action, the period of prescription of such action shall begin to run, in every such case, from the time when such absence or disability shall have ceased.

Arrears of personal services prescribed in a year.
Arrears of commuted dues in two years.
If no services rendered or commutation paid for ten years, right to claim services or dues lost for ever.
Proviso in case of absence or disability.

25 It shall be lawful for any proprietor to recover damages in any competent court against the holder or holders of any praveni pangu who shall not have commuted, and who shall have failed to render the services defined in the registry hereinbefore referred to. In assessing such damages it shall be competent for the court to award not only the sum for which the services shall have been assessed by the commissioners for the purpose of perpetual commutation, but such further sum as it shall consider fair and reasonable to cover the actual damages sustained by the proprietor through the default of the nilakaraya or nilakarayas to render such personal services at the time when they were due; but it shall not be lawful for any proprietor to proceed to ejectment against his praveni nilakaraya for default of performing services or paying commuted dues; the value of those services or dues shall be recoverable against such nilakaraya by seizure and sale of the crop or fruits on the pangu, or, failing these, by the personal property of such nilakaraya, or, failing both, by a sale of the pangu subject to the personal services, or commuted dues in lieu thereof, due thereon to the proprietor. The proceeds of such sale are to be applied in payment of the amount due to the proprietor, and the balance, if any, shall be paid to the evicted nilakarayas, unless there should be any puisne incumbrance upon the holding, in which case such balance shall be applied to satisfy such incumbrance.

Remedy of proprietor against tenant neglecting to render services or to pay commutation.

12th January, 1870.

Digitized by Google

No. 9 of 1870.

An Ordinance to amend the Ordinance No. 3 of 1870.

(*See under No. 3 of 1870, page 660.*)

No. 1 of 1871.

An Ordinance to amend the Customs Ordinance No. 17 of 1869 and to provide for the issue of Warehouse Warrants.

(*See under No. 17 of 1869, page 617.*)

No. 3 of 1871.

An Ordinance for regulating Measures used in sales of Gas.

(*See under No. 1 of 1869, page 576.*)

No. 7 of 1871.

An Ordinance to amend the Law of Property, and to relieve Trustees.

(*As amended by No. 2 of 1889.*)

(*See No. 2 of 1889.*)

Preamble.

WHEREAS it is expedient to amend the law of property, and to grant relief in certain cases to trustees, executors, and administrators : It is enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows :

Title.

1 This Ordinance may be cited for all purposes as "The Property and Trustees' Ordinance, 1871."

Persons entitled to assign property to themselves and others.

2 Any person shall have power to assign and convey movable and immovable property, now by law assignable, directly to himself and another person, or other persons or corporation, by the like means as he might assign or convey the same to another. And no transfer or assignment of movable or immovable property heretofore made or executed by a person to himself and another person or persons or corporation shall be deemed to be in any manner invalid by reason of its being a transfer or assignment by a person to himself and another person or persons or corporation : Provided that nothing in this section contained shall give any validity to any assignment or conveyance which would have been heretofore by any law or custom invalid by any other reason than by reason of its being an assignment or conveyance by a person to himself and any other person or persons or corporation.

Digitized by Google

Trustees.

3 All property, whether movable or immovable, which any persons shall be possessed of, or entitled to, in equal undivided shares, as trustees, shall be held by such persons as joint tenants, with the right or quality of survivorship between or amongst them, in the same manner as subsists between or amongst joint tenants by the Law of England, unless otherwise provided by the deed or instrument creating or establishing the trusts upon which such property is to be held; anything by the Ordinances No. 21 of 1844 and No. 10 of 1863 to the contrary provided notwithstanding.

Property vested in trustees as such to be held with the quality of survivorship.

4 That any district court in this colony, within the jurisdiction of which any property, movable or immovable, which is subject to any trust, may be situated, may, on petition from any person having any interest, present or future, in such trust property, or from any trustee or trustees thereof, nominate a trustee or trustees to have control thereof, either solely or jointly with any previous trustee or trustees, and either in addition to or in the place of any such previous trustee or trustees, as circumstances may require in any of the cases following, that is to say:

District court may nominate trustees in certain cases.

(1) Where the deed or instrument creating the trust shall contain no adequate provision for the appointment of a new trustee or trustees, and the trustee, or one or more of the trustees originally appointed or nominated under the powers by this Ordinance created may have died, or become incapable of acting, or may have left the colony and be residing elsewhere, or may be desirous of being relieved from the duties thereof.

(2) Where any such trustee shall neglect or refuse to act in the duties of his office, or shall misconduct himself in the discharge thereof, whether the said deed or instrument shall contain an adequate provision for the appointment of new trustees or not.

(3) Where the said deed or instrument does contain such provision, but the sole remaining trustee or trustees thereof shall be incapable of acting or of making a sufficient transfer and assignment of the trust property by reason of lunacy or infancy, or where the remaining trustee or trustees may be resident out of the colony, or where all the trustees may be dead, and the heirs of the last survivor incapable, for any of the reasons aforesaid, of making a valid transfer, or where such heirs, or any of them, may be resident out of the colony, or where there may be a difficulty in discovering them, or where it may be doubtful which of several trustees is the survivor.

(4) Where the said deed or instrument contains an adequate provision for the appointment of a trustee in the room of any retiring trustee, but the person in whom such appointment is vested by virtue of such provision shall refuse or neglect for the space of twenty-eight days after being requested so to do by any trustee desiring to retire, to make any such fresh

Digitized by Google

appointment; but in this case the petition of the retiring trustee shall be accompanied by a statement in writing of all trust property then under his control, and such an account or statement as may satisfy the court that he has duly discharged his office and duty as trustee.

Vesting of property in new trustees.

5 That when and so soon as such nomination shall be made by such district court, all the property, movable and immovable, which may be subject to the trusts aforesaid, and situate within this colony, whether within the jurisdiction of the said court or not, shall become vested in the trustee or trustees so nominated, either solely or jointly with the continuing trustee or trustees, as fully and effectually as if the same had been conveyed and assigned to them or him by the person or persons in whom the same was vested, and such newly nominated trustee or trustees shall thenceforth possess and enjoy all the powers of a trustee or trustees, in the same manner as if he or they had been nominated or appointed in and by the original deed or instrument creating the trust, and as well in respect of property in the colony situated out of as in respect of property within the jurisdiction of the court making the nomination.

Lists of trustees to be kept in Land Registry Office in Colombo.

6 The secretary of the court making such nomination of a trustee shall give information thereof forthwith to the Registrar-General of Lands, who shall cause an alphabetical list of all persons appointed trustees by any district courts to be made out, showing the courts by which they were appointed, and the number of the record in which the appointments have been made. And such list shall be preserved in the Land Registry Office in Colombo, and shall, at all reasonable hours, upon a written application in that behalf, duly stamped, be open to the inspection and perusal of all persons.

7, 8 Repealed by No. 2 of 1889.

Appeals from orders of district courts.

9 All orders made by any district courts in pursuance of the powers hereinbefore contained shall be subject to appeal to the Supreme Court on the part of any person having or claiming to have any interest in the trust property, or any part thereof, and such appeals shall be subject to the same rules, regulations, and practice as exist with respect to interlocutory appeals from district courts.

10–12 Repealed by No. 2 of 1889.

Power of trustees to give valid receipts.

13 The receipts in writing of any trustees or trustee for any money payable to them or him by reason or in the exercise of any trusts or powers reposed or vested in them or him shall be sufficient discharges for the money therein expressed to be received, and shall effectually exonerate the persons paying such money from seeing to the application thereof, or from being answerable for any loss or misapplication thereof.

Commencement of Ordinance.

14 This Ordinance shall come into operation on the date of the passing thereof.

14th January, 1871.

Digitized by Google

No. 8 of 1871.

An Ordinance to amend in certain respects the Law of Mortgage and Hypothec.

(*As amended by No. 21 of 1871.*)

(*See No. 21 of 1871.*)

WHEREAS it is expedient to amend in certain respects the law of mortgage and hypothec in this colony: It is therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof: **Preamble.**

1 No conventional general mortgage, executed after this Ordinance shall come into operation, shall be valid and effectual, so as thereby to give the mortgagee any lien, charge, claim, or priority over or in respect of any property movable or immovable. **General mortgages abolished.**

2 No pledge or conventional hypothecation or bill of sale of any movable property, effected after this Ordinance shall come into operation, shall be valid and effectual, so as thereby to give the pledgee, mortgagee, or transferee any lien, charge, claim, right, or priority over, to, or in respect of such property: **Mortgage of movable property to be effected by actual delivery;**

Unless the said property shall have been actually delivered over into the custody and possession of the pledgee, mortgagee, or transferee, or some person on behalf of such pledgee, mortgagee, or transferee, and shall continue and remain ostensibly and *bonâ fide* in such custody and possession from the date of such pledge, hypothecation, or bill of sale, until the time when the pledgee, mortgagee, or transferee shall make his claim at law to, over, or in respect of such property; or

Unless such pledge, hypothecation, or bill of sale shall have been created by writing signed by the person effecting the same, or by some person thereto lawfully authorized by him, and unless such writing shall within seven* days (exclusive of Sundays and public holidays) from the date thereof have been duly registered in the office of the registrar of lands for the district in which such property shall be at the time of such pledge, hypothecation, or bill of sale, or in the office of the said registrar for each of such districts, when such property is at the time of such pledge, hypothecation, or transfer in more than one district. **or by deed duly registered.**

[* *See* § *3, 21 of 1871*]

3 No transfer or assignment, made after this Ordinance shall come into operation, of any pledge, conventional hypothecation, or bill of sale of any movable property, shall be valid and effectual, so as thereby to give the transferee or assignee any lien, charge, claim, right, or priority over, to, or in respect of such property, unless such transfer or assignment shall be in writing, signed by the person transferring the same, or by some person thereto lawfully authorized by **Transfer or assignment of hypothecations to be also by deed, and registered.**

Digitized by Google

[* See § 3, 21 of 1871]

him, and shall within seven* days (exclusive of Sundays and holidays) from the date thereof have been registered in manner aforesaid.

Existing pledges, &c., to be also duly registered.

4 No pledge, conventional hypothecation, or bill of sale of any movable property heretofore effected by any writing, and no transfer or assignment thereof, shall be valid and effectual, so as thereby to give the pledgee, mortgagee, transferee, or assignee any lien, charge, claim, right, or priority over, to, or in respect of such property, unless such pledge, hypothecation, bill of sale, transfer, or assignment shall be duly registered as aforesaid within three months from the date of this Ordinance coming into operation, or shall have been heretofore registered in pursuance of the provisions of the Lands Registration Ordinances, No. 8 of 1863† and No. 3 of 1865.†

Registrars to keep lists of such writings; inspection, extracts, certificates, &c.

5 It shall be the duty of the registrar of lands to prepare and keep special and proper lists and indexes of all writings required by this Ordinance to be registered; and all such lists, indexes, and the writings to which they refer shall, at all reasonable hours, upon a written application in that behalf, be open to the inspection and perusal of all persons who may desire to inspect and peruse the same; and such persons shall be entitled to demand and receive copies of any entries in such register, or extracts from any such entries. And such registrar shall, immediately after the registration of any writing required by this Ordinance to be registered, deliver to the party effecting the same a certificate thereof, signed by such registrar, and shall also (if required) make and sign an endorsement thereof on the writing produced for registration. And every such certificate, application, copy, and extract as aforesaid shall be subject to the same stamp duties as if the writing registered was a mortgage or transfer of immovable property, registered under the Land Registration Ordinances, No. 8 of 1863† and No. 3 of 1865,† or any other Ordinance hereafter to be passed respecting the registration of deeds relating to immovable property.

Meaning of "bill of sale."

6 The words "bill of sale" shall include bills of sale, assignments, transfers, declarations of trust without transfer, and other assurances of movable property, and also powers of attorney and authorities or licenses to take possession of personal property as security for any debt.

Proviso as to mortgage of ships, &c.

7 Nothing in this Ordinance shall be taken to apply to hypothecations of any ship or vessel, or any share thereof; nor to hypothecations of goods in any foreign parts or at sea; nor to property represented by bills of lading, dock warrants, warehouse-keepers' certificates, warrants or orders for the delivery of goods, or any other documents used in the ordinary course of business as proof of the possession or control of goods, and authorizing or purporting to authorize either by endorsement or by delivery the possessor of such document to transfer or receive goods

† Repealed by No. 14 of 1891.

Digitized by Google

thereby represented; nor to any shares or interests in the stock funds or securities of any Government, or in the capital or property of any incorporated or joint stock company; nor to choses in action; nor to any crops or produce growing or to be grown on any lands or plantations.

8 The 66th section of the Ordinance No. 16 of 1865, entitled "An Ordinance to provide for the establishment and regulation of a Police Force in this Island," is hereby repealed. **Repeal of 66th section of Ordinance No. 16 of 1865.**

9 This Ordinance shall come into operation at the date of the passing thereof. **Commencement of Ordinance.**

14th January, 1871.

No. 21 of 1871.

An Ordinance to amend the Ordinance No. 8 of 1871, entitled "An Ordinance to amend in certain respects the Law of Mortgage and Hypothec."

WHEREAS it is expedient to amend the Ordinance No. 8 of 1871, entitled "An Ordinance to amend in certain respects the Law of Mortgage and Hypothec:" It is therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows: **Preamble.**

1 No pledge, conventional hypothecation, or bill of sale, heretofore effected or hereafter to be effected, of any movable property, and no transfer or assignment, heretofore effected or hereafter to be effected, of such pledge, conventional hypothecation, or bill of sale, shall be deemed to be invalid or in any respect ineffectual for want of registration under the provisions of the said Ordinance No. 8 of 1871, if such pledge, conventional hypothecation, bill of sale, transfer, or assignment shall have been or shall be effected by any instrument which also contains any mortgage or assurance of any immovable property, or any transfer or assignment of such mortgage or assurance; and if such mortgage or assurance of immovable property, or transfer or assignment thereof, shall have been or shall be duly registered in pursuance of the Land Registration Ordinances, No. 8 of 1863* and No. 3 of 1865,* or either of these. **Pledges, &c., of movable property, contained in mortgages duly registered or assurances of immovable property, need not be registered.**

2 It shall be competent to the registrar to deliver to the party effecting a registration of any such instrument one certificate setting out the mortgage of assurance of immovable property, and the pledge, conventional hypothecation, or bill of sale of movable property, instead of two separate certificates. **One certificate of registration may be given on an instrument containing a mortgage, &c., of immovable and movable property.**

3 The time prescribed by sections 2 and 3 for registering any pledge, hypothecation, or bill of sale of movable property created by writing, or a transfer or assignment thereof, is hereby extended from seven to fourteen days, exclusive of Sundays and public holidays. Any such pledge, hypothecation, or bill of sale, or transfer or assignment thereof, heretofore created and registered within fourteen days from the date of the writing creating the same, shall be deemed good and valid, anything in the said Ordinance to the contrary notwithstanding. **Time for registering such instruments extended from seven to fourteen days.**

* Repealed by No. 14 of 1891.

Digitized by Google

Marriage settlements declared not to be under operation of said Ordinance.

4 And, in order to remove all doubts on the subject, it is declared and enacted that marriage settlements and assignments thereof do not come within the definition of bill of sale in section 6, or within any other section of the said Ordinance.

Commencement of Ordinance.

5 This Ordinance shall come into operation from the date of the passing thereof.

This Ordinance and Ordinance No. 8 of 1871 to be deemed as one Ordinance.

6 This Ordinance and the Ordinance No. 8 of 1871 shall be read as one Ordinance.

23rd December, 1871.

No. 19 of 1871.

An Ordinance to provide for the reduction in certain places of the minimum rates payable for maintenance of Police.

(*See under No. 16 of 1865, page 520.*)

No. 21 of 1871.

An Ordinance to amend the Ordinance No. 8 of 1871, entitled "An Ordinance to amend in certain respects the Law of Mortgage and Hypothec."

(*See under No. 8 of 1871, page 675.*)

No. 22 of 1871.

An Ordinance to amend the Laws regulating the Prescription of Actions.

(*As amended by No. 2 of 1889.*)

(*See No. 2 of 1889.*)

Preamble.

WHEREAS it is expedient to amend the laws now in force regulating the prescription of actions: It is therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Repeal of former Ordinance.

1 The Ordinance No. 8 of 1834, entitled "An Ordinance to assimilate, amend, and consolidate the Laws now in force in different parts of the Island, regulating the Prescription of Actions," is hereby repealed, except so far as respects all rights which shall have accrued, liabilities which shall have been incurred, and all proceedings or matters which shall have taken place before this Ordinance shall come into force.

Interpretation clause.

2 In the interpretation of this Ordinance the following words and expressions shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant to such construction:

Immovable property.

The expression "immovable property" shall be taken to include all shares and interest in such property, and all rights, easements, and servitudes thereunto belonging or appertaining.

Digitized by Google

Prescription.

Term of prescription for lands or immovable property.

3 Proof of the undisturbed and uninterrupted possession by a defendant in any action, or by those under whom he claims, of lands or immovable property, by a title adverse to or independent of that of the claimant or plaintiff in such action (that is to say, a possession unaccompanied by payment of rent or produce, or performance of service or duty, or by any other act by the possessor, from which an acknowledgment of a right existing in another person would fairly and naturally be inferred) for ten years previous to the bringing of such action, shall entitle the defendant to a decree in his favour with costs. And in like manner, when any plaintiff shall bring his action, or any third party shall intervene in any action for the purpose of being quieted in his possession of lands or other immovable property, or to prevent encroachment or usurpation thereof, or to establish his claim in any other manner to such land or other property, proof of such undisturbed and uninterrupted possession, as hereinbefore explained, by such plaintiff or intervenient, or by those under whom he claims, shall entitle such plaintiff or intervenient to a decree in his favour with costs. Provided that the said period of ten years shall only begin to run against parties claiming estates in remainder or reversion from the time when the parties so claiming acquired a right of possession to the property in dispute.

Saving in case of reversioners and remainder men.

Possessory action may be brought within one year of ouster.

4 It shall be lawful for any person who shall have been dispossessed of any immovable property otherwise than by process of law, to institute proceedings against the person dispossessing him at any time within one year of such dispossession. And on proof of such dispossession within one year before action brought, the plaintiff in such action shall be entitled to a decree against the defendant for the restoration of such possession without proof of title. Provided that nothing herein contained shall be held to affect the other requirements of the law as respects possessory cases.

5 Repealed by No. 2 of 1889.

Mortgage debt or bond prescribed after ten years.

6 No action shall be maintainable for the recovery of any sum due upon any hypothecation or mortgage of any property, or upon any bond conditioned for the payment of money, or the performance of any agreement or trust, or the payment of penalty, unless the same be commenced, in the case of an instrument payable at, or providing for the performance of its condition within, a definite time, within ten years from the expiration of such time, and in all other cases within ten years from the date of such instrument of mortgage or hypothecation, or of last payment of interest thereon, or of the breach of the condition.

Term in case of partnership deeds, written promise, contract, bargain, agreement, or security, or upon

7 No action shall be maintainable upon any deed for establishing a partnership, or upon any promissory note or bill of exchange, or upon any written promise, contract, bargain, or agreement, or other written security not falling within the description of instruments set forth in the 6th section, unless such action shall be brought within six years

Digitized by Google

promissory note, bill of exchange, &c.

from the date of the breach of such partnership deed or of such written promise, contract, bargain, or agreement, or other written security, or from the date when such note or bill shall have become due, or of the last payment of interest thereon.

Terms in cases of action to recover goods, rent, money lent, &c., without written security.

8 No action shall be maintainable for the recovery of any movable property, rent, or mesne profit, or for any money lent without written security, or for any money paid or expended by the plaintiff on account of the defendant, or for money received by defendant for the use of the plaintiff, or for money due upon an account stated, or upon any unwritten promise, contract, bargain, or agreement, unless such action shall be commenced within three years from the time after the cause of action shall have arisen.

Term in cases for goods sold, shop bill, book debt, or work and labour.

9 No action shall be maintainable for or in respect of any goods sold and delivered, or for any shop bill or book debt, or for work and labour done, or for the wages of artisans, labourers, or servants, unless the same shall be brought within one year after the debt shall have become due.

Term in case for damages.

10 No action shall be maintainable for any loss, injury, or damage, unless the same shall be commenced within two years from the time when the cause of action shall have arisen.

Term in case of actions not hereinbefore provided for.

11 No action shall be maintainable in respect of any cause of action not hereinbefore expressly provided for, or expressly exempted from the operation of this Ordinance, unless the same shall be commenced within three years from the time when such cause of action shall have accrued.

Claims in reconvention not to be allowed where action is barred.

12 No claim in reconvention or by way of set-off shall be allowed or maintainable in respect of any claim or demand after the right to sue in respect thereof shall be barred by any of the provisions hereinbefore contained.

No acknowledgment to take a case out of the operation of this Ordinance unless in writing.

13 In any of the forms of action referred to in sections 6, 7, 8, 9, 11, and 12 of this Ordinance, no acknowledgment or promise by words only shall be deemed evidence of a new or continuing contract, whereby to take the case out of the operation of the enactments contained in the said sections, or any of them, or to deprive any party of the benefit thereof, unless such acknowledgment shall be made or contained by or in some writing to be signed by the party chargeable, or by some agent duly authorized to enter into such contract on his behalf; and that where there shall be two or more joint contractors, or heirs, executors, or administrators of any contractor, no such joint contractor, or heir, executor, or administrator shall lose the benefit of the said enactments, or any of them, by reason of any written acknowledgment or promise made by any other or others of them. Provided always that nothing herein contained shall alter or take away, or lessen the effect of any payment of any principal or interest made by any person whatsoever. Provided also that

Digitized by Google

in actions to be commenced against two or more such joint contractors or heirs, executors, or administrators, if it shall appear at the trial or otherwise that the plaintiff, though barred by any of the provisions contained in the said sections as to one or more of such joint contractors, heirs, executors, or administrators, shall nevertheless be entitled to recover against any other or others of the defendants, by virtue of a new acknowledgment or promise, or otherwise, judgment may be given for the plaintiff as to such defendant or defendants against whom he shall recover, and for the other defendant or defendants against the plaintiff.

Proviso in case of disabilities with reference to claims for land.

14 Provided, nevertheless, that if at the time when the right of any person to sue for the recovery of any immovable property shall have first accrued, such person shall have been under any of the disabilities hereinafter mentioned—that is to say, infancy, idiotcy, unsoundness of mind, lunacy, or absence beyond the seas—then and so long as such disability shall continue the possession of such immovable property by any other person shall not be taken as giving such person any right or title to the said immovable property, as against the person subject to such disability or those claiming under him, but the period of ten years required by the 3rd section of this Ordinance shall commence to be reckoned from the death of such last named person, or from the termination of such disability, whichever first shall happen; but no further time shall be allowed in respect of the disabilities of any other person. Provided also that the adverse and undisturbed possession for thirty years of any immovable property by any person claiming the same, or by those under whom he claims, shall be taken as conclusive proof of title in manner provided by the 3rd section of this Ordinance, notwithstanding the disability of any adverse claimant.

Proviso.

Proviso in case of disabilities affecting claims other than those for lands.

15 Provided also that if at the time when the right of action in respect of any of the causes referred to in sections 6, 7, 8, 9, 11, and 12 of this Ordinance shall accrue, the person so entitled to sue shall be subject to any of the said hereinbefore mentioned disabilities, then the several periods of limitation hereinbefore provided shall not commence to run until the removal of such disability or the death of such person, whichever first shall happen; but no further time shall be allowed in respect of the disability of any other person.

Act not to affect Crown or causes matrimonial.

16 Nothing herein contained shall in any way affect the rights of the Crown, or shall be taken to apply to any proceedings in any action for divorce, or to any case in which special provision has been or may hereafter be made for regulating and determining the period within which actions may be commenced against any public officer or other person.

Ordinance when to come into operation.

17 That this Ordinance shall come into operation on the first day of January, 1872.

23rd December, 1871.

Digitized by Google

No. 28 of 1871.

An Ordinance to provide for the registration of Domestic Servants.

Preamble.

WHEREAS it is expedient to provide for the registration of domestic servants: It is enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows :

Commencement of Ordinance.

1 This Ordinance shall come into operation in such towns or districts of the island, and from such date or dates, as may from time to time be prescribed by the Governor, by Proclamation published in the *Government Gazette*.

Interpretation clause.

2 The following words and expressions in this Ordinance shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction :

"Master" shall include every person having servants in his employ.

"Servants" shall mean domestic servants, hired by the month or receiving monthly wages, and shall include head and under servants, female servants, cooks, coachmen, horsekeepers, and house and garden coolies.

Governor shall appoint registrar who shall be under supervision of the Inspector-General of Police.

3 It shall be lawful for the Governor, from time to time as occasion may require, to appoint for the island of Ceylon, or for any town or district in which this Ordinance may be brought into operation, a registrar of domestic servants, who shall be under the general supervision and control of the Inspector-General of Police.

Existing Servants.

Masters to cause servants to be registered.

4 Within one month of this Ordinance coming into operation in any town or district, it shall be the duty of every employer of domestic servants to cause such servants in his employment to be registered in the register of servants for such town or district, and for this purpose he shall furnish to the registrar in writing a list showing the names, capacity in which employed, and date of engagement of each of his servants.

To supply lists to registrar.

Servants to attend personally.

5 It shall be the duty of every servant to attend personally, within three months after the coming into operation of this Ordinance, before the registrar, and furnish him with information as regards his age, country, previous service, and such other particulars as the registrar may require.

To procure pocket register.

6 The registrar shall, on such servant so attending, hand to him a pocket register, in which shall be entered the particulars of his or her present engagement, and such memorandum of previous service or antecedents of the applicant as he or she may desire to have recorded in the register. Provided that the registrar shall not make any such antecedent entry without satisfying himself of the credibility of the statements tendered to him for entry.

Digitized by Google

Domestic Servants.

7 If any servant, returned by any master to the registrar as provided for in section 4, shall leave the service of such master within three months of the coming into operation of this Ordinance, and before obtaining his pocket register, such master shall transmit to the said registrar a memorandum of date and cause of such servant quitting his employment.

Servants quitting employment before pocket registers supplied.

Intending Servants.

8 It shall be the duty of the registrar to receive applications from persons desirous to enter domestic service. He shall satisfy himself that there are reasonable grounds to believe such applicants to be fit and proper persons to enter domestic service; and if so satisfied, shall register them in the general registry, recording what he has been able to learn respecting their antecedents and the names of any persons who certify to their respectability. And he shall thereupon issue pocket registers to such applicants, which shall contain the particulars of the record in the general registry.

Applicants for domestic service.

9 If the applicant can produce no sufficient evidence as to his fitness for domestic service, the registrar may grant provisional registration, to be thereafter converted into confirmed registration, according to the result of subsequent service.

Registrar may grant provisional registration.

10 If the registrar be satisfied that the applicant is not a fit and proper person, he may withhold registration altogether; but it shall be his duty in such case to submit the same to the Inspector-General of Police for his approval.

Registrar may refuse, but must report refusal to Inspector-General of Police.

11 The registrar shall not grant registration to any convicted thief or associate of thieves, or to any person known to the police to be leading a disorderly or disreputable life, or who shall have been convicted of any infamous crime. Provided that the registrar may grant registration to any person from whom it may have been so withheld, on application of any householder who may be willing to give such person a trial; provided that the registrar is satisfied of the respectability of such householder, and that the intention to engage such person as a domestic servant is a *bonâ fide* one.

Registration to be refused to convicted offenders, &c.

Proviso.

General Regulations.

12 After the coming into operation of this Ordinance in any town or district no master resident therein shall engage a servant who shall fail to produce his pocket register in evidence of his being registered, or whose pocket register shall not record the termination of his last previous service, if any.

Master shall not engage unregistered servant.

13 On engaging a servant, every master shall forthwith enter in the pocket register the date and capacity in which such servant is engaged, and shall cause the servant to attend personally at the registrar's office, to have the entry inserted in the general registry.

Master to enter engagement in pocket register.

14 Every master who shall discharge a servant shall thereupon insert in the pocket register the date and cause of discharge and the character of the servant. Provided that

Master to enter discharge.

Proviso.

39-00 Digitized by Google

if for any reason he be unwilling to give the servant a character, or to state the cause of discharge, he may decline to do so; but in that case he shall furnish to the registrar in writing his reasons for so refusing. Provided further that if the master be unable to enter the cessation of the engagement, through failure of servant to produce pocket register, he shall report the fact to the registrar.

Proviso.

Servants to attend at office of registrar for pocket register entries to be transferred to general registry.

15 Every servant shall, within fifteen days after the date of any entry in his pocket register, attend personally at the office of the registrar of servants, for the purpose of having such entry recorded in the general registry.

Servants to exhibit pocket registers to police.

16 It shall be the duty of every registered servant to produce his pocket register when called upon to do so by the police.

Registered servants entering service in places not brought under Ordinance.

17 Every servant registered under the provisions of this Ordinance shall, if he subsequently enter service in any place not under its operation, attend personally at the nearest police station on his entering or leaving such service, and produce his pocket register to the principal officer of police at such station; and the said officer of police shall record such commencement or termination of service, and communicate the same to the registrar of servants for the town or district in which such servant was originally registered.

Master in places not under Ordinance.

18 It shall be the duty of any employer of domestic servants not resident in any town or district under the operation of this Ordinance, who shall engage or discharge a registered servant, forthwith to enter the engagement or discharge of such servant in the pocket register, in the manner prescribed in the 13th and 14th sections of this Ordinance, relating to the engagement or discharge of servants in places brought within the operation of this Ordinance.

Duplicate pocket registers.

19 It shall be lawful to the registrar to issue duplicate pocket registers to replace the originals which may have become worn out, or which may have been lost or destroyed.

Penalties.

Penalties.

20 The following penalties are hereby imposed for any of the following acts:

As respects Officers of the Registration Department.

Registrar and his establishment for carelessly injuring documents.

(1) Any officer of the registration department carelessly losing or injuring, or allowing to be lost or injured, any register book or other document while in his keeping, shall be held to be guilty of an offence, and be liable to a fine not exceeding two hundred rupees.

Registrar and his establishment for corruptly injuring documents.

(2) Any officer of the registration department committing any of the following acts shall be held to be guilty of an offence, and be liable to imprisonment, with or without hard labour, for a period not exceeding three years, or to a fine not exceeding one thousand rupees, or to both:

(*a*) Wilfully destroying or injuring any register book or other document, or wilfully permitting or causing any such book to be destroyed or injured.

Digitized by Google

(*b*) Falsely making or counterfeiting, or permitting or causing to be falsely made or counterfeited, any part of a register book or document.

(*c*) Wilfully inserting or permitting, or causing to be inserted in any register book, or certified copy thereof, or document, any false entry.

(*d*) Wilfully giving a false certified copy of a register book or document, or permitting or causing such false certified copy to be given.

(*e*) Certifying any writing to be a copy or extract from a servant's register book, knowing the said portion so copied or extracted to be false in any part thereof.

As respects such Officers and others.

Registration officers who take unauthorized fees, and persons who offer such.

(3) Any officer of the registration department who shall, on any pretext or under any circumstance, directly or indirectly collect or receive, and any person who shall offer or pay to such officer, any fee, gratuity, allowance, or recompense, other than he may be duly authorized to collect or receive, shall be held to be guilty of an offence, and be liable to a fine not exceeding two hundred rupees.

As respects Masters.

Master not fulfilling any duty or obligation imposed on him by this Ordinance.

(4) Any master committing any of the following acts shall be held to be guilty of an offence, and be liable to a fine not exceeding twenty rupees:

(*a*) Failing to furnish to the registrar, within one month after this Ordinance shall have come into operation in any town or district, the list specified in section 4.

(*b*) Failing to transmit to the registrar a memorandum of the date of a servant quitting his employ, as required by section 7.

(*c*) Engaging a servant, after this Ordinance shall have come into operation, who shall fail to produce his pocket register, or whose pocket register shall not record the termination of the last previous service, if any, as provided by section 12.

(*d*) Failing to enter in the pocket register the date and capacity in which a servant is engaged, as required by section 13.

(*e*) Failing to insert in such pocket register the date of a servant being discharged, and the cause of such discharge, as required by section 14.

(*f*) Declining to give his servant a character, and failing to furnish to the registrar his reasons for so refusing.

(*g*) Engaging or discharging a registered servant in any town or district not under the operation of this Ordinance, without entering such engagement or discharge in the pocket register, as required by section 18.

Digitized by Google

As respects Servants.

Servants not fulfilling any duty or obligation imposed upon them by this Ordinance.

(5) Any servant committing any of the following acts shall be held to be guilty of an offence, and be liable to a fine not exceeding twenty rupees:

(*a*) Failing to attend the registrar and furnish him with the information required by section 5.

(*b*) Failing to produce his pocket register when requested to do so.

(*c*) Having been once registered under the provisions of this Ordinance, and yet entering or leaving service thereafter in any place not under the operation of this Ordinance, without having attended at the nearest police station and producing his pocket register, as required by section 17.

Servants giving false information.

(6) Any servant who shall give false information on any matter in which he is required by this Ordinance to give information to the registrar of servants, or to any other person, shall be guilty of an offence, and be liable to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months.

As respects others.

Other persons for injuring registration documents.

(7) Any person unconnected with the registration department committing any of the following acts shall be held to be guilty of an offence, and be liable to imprisonment, with or without hard labour, for a period not exceeding one year, or a fine not exceeding five hundred rupees, or both:

(*a*) Wilfully destroying or injuring any register book or document, or causing any such book or document to be destroyed or injured.

(*b*) Falsely making or counterfeiting, or causing to be falsely made or counterfeited, any part of a register book or document.

(*c*) Wilfully inserting or causing to be inserted in any register book or document, or certified copy thereof, any false entry.

(*d*) Wilfully giving a false certified copy of a register book, or causing such certified copy to be given.

Fees.

Fees.

21 The following fees shall be levied under this Ordinance; such fees to be paid by masters or servants, or intending servants, in stamps, to be attached to the pocket register:

	Rs.	c.
Fee payable by master on causing an existing servant to be registered	0	25
Fee payable by master on engaging a new servant ...	0	25
Fee payable by intending servant on provisional registration	0	25
Fee payable by intending servant on registration being confirmed	0	25
Fee payable by servant for the registration of previous service or antecedents	0	25
Fee payable by servant for a duplicate pocket register ...	1	0

Digitized by Google

22 It shall be lawful for the court awarding a fine to direct that any sum not exceeding half thereof shall be paid to the informer, and the remainder to a fund which shall be called "The Domestic Servants' Registration Fund;" the said fund to be regulated in manner as the Governor, with the advice of the Executive Council, from time to time shall direct. **Appropriation of fines.**

29th December, 1871.

No. 8 of 1872.

An Ordinance for amending the Ordinance No. 1 of 1870.

(*See under No. 1 of 1870, page 647.*)

No. 9 of 1872.

An Ordinance to empower Commissioners, appointed by the Governor to inquire into any matter referred to them for inquiry, to hear evidence thereon.

WHEREAS it is frequently necessary for the Governor to issue commissions appointing one or more persons named therein to inquire into and report upon any matter upon which information, in the opinion of the Governor, is necessary, and it is expedient that commissioners so appointed should have the power to hear evidence with a view to such inquiry and report: It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows: **Preamble.**

1 Whenever the Governor, with the advice of the Executive Council, shall issue a commission under the seal of this island, appointing one or more persons to inquire into and report upon any matter stated in such commission upon which information is, in his opinion, necessary, it shall be lawful for the commissioners so appointed by a summons under the hand of their chairman, or if there be only one commissioner, of such commissioner, to require the attendance before them, at a time and place to be mentioned in the summons, of any person whose evidence shall, in the judgment of the commissioners, be material to the subject-matter of the inquiry referred to them, and to require all persons to bring before them such books, papers, deeds, and writing as to the said commissioners shall appear necessary for arriving at the truth touching such subject-matter. **Commissioners so appointed may issue summons to any person named therein to appear before them and to produce documents.**

2 If any person upon whom any such summons shall be served by the delivery thereof or by the same being left at his usual place of abode shall, without reasonable cause, of which the commissioners shall be the judges, fail to appear **Commissioners to have all the powers of district courts as respects**

Digitized by Google

persons failing to appear, or to be sworn, or to answer questions, or to produce documents.

before them at the time and place mentioned in the summons, or shall refuse to be sworn, or shall not make answer to such questions as shall be put to him touching the matters which the commissioners are directed to inquire into, and which he is legally bound to make, or shall refuse or fail without reasonable cause, of which the commissioners shall be the judges, to produce and show to the said commissioners any such papers, books, deeds, or writings, being in his possession or under his control, as to the said commissioners shall appear necessary for arriving at the truth of the things which they are directed to inquire into, the commissioners shall have the same powers touching any such person so failing to appear, or refusing to be sworn, or not answering such questions as shall be put to him, or refusing to produce any such papers, books, deeds, or writings as aforesaid, as any district court may by law exercise against any person for making default of appearance, or for refusing to be sworn, or to give evidence, or to produce documents at the trial of any action depending in such court. Provided, however, that it shall not be lawful for such commissioners to exercise any of the said powers without first reporting to the Governor the case which renders, in their opinion, the exercise of them, or any of them, necessary, with full particulars, and obtaining the sanction of the Governor, with the advice of the Executive Council.

Commissioners empowered to administer oath.

False swearing before them made perjury.

3 The commissioners so appointed are hereby empowered to administer oaths to all persons who shall be examined before them, and every person who, upon examination upon oath before the said commissioners, shall wilfully give false evidence, shall be liable to the pains and penalties of perjury.

Processes issued by commissioners exempt from stamp and schedule duty.

Fiscals bound to execute processes and commands of commissioners.

4 No stamp duty shall attach to or be payable for any process issued by the commissioners under the provisions of this Ordinance ; nor shall it be necessary to attach schedules to processes issued to the fiscal under such provisions. Fiscals shall be bound to serve and execute all lawful processes and commands issued by the said commissioners.

20th December, 1872.

No. 1 of 1873.

An Ordinance relating to the care and custody of Persons of Unsound Mind, and their Estates.

(*As amended by No. 3 of 1882, No. 3 of 1883, and No. 2 of 1889.*)

(*See No. 3 of 1882, No. 2 of 1889, No. 10 of 1889, and chap. XXXII. of No. 15 of 1898.*)

Preamble.

WHEREAS it is expedient to make further and better provision relating to the care and custody of persons of unsound mind and their estates : It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows :

Digitized by Google

Lunacy.

1 This Ordinance shall come into operation at the date of the passing thereof. Commencement of Ordinance.

2 This Ordinance may be cited as "The Lunacy Ordinance, 1873." Short title.

3 The Ordinance No. 11 of 1840, entitled "An Ordinance to amend the Law relative to the establishment of Lunatic Asylums, and to make further general provisions for the proper care and custody of Insane Persons," and section 3 of the Rules and Orders for regulating the form of proceedings in district courts, headed "Jurisdiction over Idiots and Lunatics," are hereby repealed. Provided that such repeal shall not affect acts and proceedings which shall have been already performed, or commenced, under the said Ordinance or Rules and Orders. Repeal of Ordinance 11 of 1840, and section 3 of Rules and Orders relative to jurisdiction over idiots and lunatics. Proviso.

4 For the purposes of this Ordinance—

(1) Every person shall be deemed to be of unsound mind who is so far deranged in mind as to render it necessary that he, either for his own sake or that of the public, should be placed under control; and Meaning of "unsound mind" and

(2) No one shall be deemed a medical practitioner except such as shall have received a collegiate medical education, or shall hold a certificate of competency from the Principal Civil Medical Officer. qualification of medical practitioner.

5 Any officer of the police force, or headman, or any private person having reason to believe that a person is of unsound mind, may apply in writing to the district court having jurisdiction over the place in which such person so suspected is found, that his state of mind be inquired into. An application by a private person should be accompanied by a certificate from a medical practitioner that the person so suspected has been under his observation, and that he believes him to be of unsound mind. Any officer of police or headman or private person may apply for inquiry into the state of mind of a person suspected to be of unsound mind. Application of private person should be supported by certificate from medical practitioner.

6 The district court shall thereupon, with as little delay as possible, cause such person so suspected to be of unsound mind (hereafter called suspected person) to be brought before it, and, either then or at some other day for which the court may see reason to adjourn the inquiry, proceed to view and examine the said person, and, if need be, to hear evidence, to enable it to determine as to the state of mind of the said person. If upon such view and examination, or other proof, the district court shall be satisfied that such person is or is not of unsound mind, it shall adjudicate accordingly. Provided that it shall be lawful for the court, should it deem it necessary to subject the suspected person to further observation, to remand the suspected person once or oftener for such reasonable time as shall be specified in the order of remand to the custody of the fiscal. And provided further, that it shall be the duty of the court so to remand such person in all cases where the court considers that the said person is of sound mind but two medical practitioners certify to the contrary. At the expiration of the time fixed for the remand the court shall hear evidence and find the said person of sound or of unsound mind as to Proceedings thereupon by the district court. Further observation.

Digitized by Google

Places of remand for further observation.

it shall seem fit, and shall accordingly either discharge him or direct his further detention, as in section 8 provided. All persons so remanded shall be kept in such place as the Governor shall appoint, and shall be subject to the inspection of such persons as the Governor shall nominate.

7 Repealed by No. 2 of 1889.

If no relative or friend will undertake custody of such person, he shall be sent to the lunatic asylum.

8 If any fit relative or friend is prepared to undertake to enter into sufficient security for the proper custody, care, and maintenance of the person adjudged to be of unsound mind, it shall be lawful for the court to order that the person so adjudged should be placed in his charge and under his control. But if no fit relative or friend will undertake as aforesaid, the district court shall order that such person be kept in custody until the Governor's pleasure shall be known; whereupon the Governor may issue his warrant to order the removal of such person to a lunatic asylum, and may give such further order for the safe custody of such person in such place or manner as to the Governor shall seem fit.

Proviso.

Provided that it shall be lawful for any relative or friend who shall have undertaken to enter into security as aforesaid, or who shall have entered into such security, to surrender such person to the court, whereupon it shall be the duty of the court to order that such person be kept in custody until the Governor's pleasure shall be known. Until the Governor's warrant shall be received it shall be the duty of the fiscal to detain such person in the place appointed by the Governor for the reception of persons under remand for further observation.

Governor may, on petition of relatives, admit such persons (not being paupers) into lunatic asylum.

9 It shall be lawful for the Governor upon any petition being presented by any guardian or relative or friend of any person of unsound mind, requesting that such person may be admitted into a lunatic asylum, and offering to enter into security for the expenses of his care and maintenance, to issue his warrant to the superintendent of such lunatic asylum to direct that such person shall, on being brought to such lunatic asylum, be examined by two medical practitioners named in such warrant, and upon their granting a certificate of such person being of unsound mind, that he shall be thereupon admitted into the lunatic asylum, to be therein taken care of and maintained until his recovery, or until application be made for his discharge by any relative or friend, as hereinafter provided, or failure of payment of the rate hereinafter required.

Proviso for bond to pay the daily allowance or rate and contingent expense of such person.

Provided always that a bond with such security as the Governor shall require, previous to the admission of any such person, be given by his relative or friend for the due payment of such daily rate or allowance as may be fixed and declared payable by the general regulations of such lunatic asylum, on the reception therein of such person, together with all other expenses contingent upon the maintenance and care of such person during his continuance in such lunatic asylum, as well as for the removal of such person within fourteen days after due notice given in writing by the superintendent of such lunatic asylum to the said relative or friend of such person, or at his

Digitized by Google

last place of abode; and in default of any of the conditions of the said bond being duly performed, the amount due under such bond shall be deemed a debt to the Crown, and shall be recoverable as other debts due to the Crown.

On application and security, relatives may take persons confined in lunatic asylums under their own care.

10 When application at any time by any guardian or relative or friend of a person of unsound mind confined in any lunatic asylum, or in the custody of the fiscal for the purpose of being transferred to a lunatic asylum (not being under any criminal warrant), shall be made to the Governor, requesting that such person may be delivered over to the care and maintenance of such relative or friend, it shall be lawful for the Governor, if he shall see fit to do so, and upon such reasonable security as may be required being given by such guardian or relative or friend to take care of and maintain such person, to direct the immediate discharge of such person. Upon the recovery of any person confined in a lunatic asylum (not being under any criminal warrant) and such recovery being certified by the medical officer in charge of such asylum, he shall be discharged by order of the Governor; and in all cases where any such person, being a pauper, shall have been removed under the provisions of this Ordinance to any lunatic asylum out of the province to which he belongs, such person shall, upon being discharged from such lunatic asylum upon his recovery, be conveyed back by Government to his own village or usual place of former residence, or be allowed such reasonable batta or sum for his travelling expenses thereto as shall be approved by the Governor under any rule or order to be issued for that purpose.

Discharge on recovery.

Proviso as to paupers.

11 Repealed by No. 3 of 1883, itself repealed by No. 15 of 1898.

Prisoners under sentence in jail on becoming of unsound mind to be removed to lunatic asylum.

12 If any person under imprisonment in any jail shall become of unsound mind, and a report shall be made to the Governor by the fiscal of the Province wherein the said jail is situated, with a certificate of the medical officer thereof, that such person is of unsound mind, it shall be lawful for the Governor to direct by warrant under his hand that such person shall be removed to the lunatic asylum named in such warrant, to be there detained until the expiration of the sentence under which such person may have been imprisoned. If any person shall become of sound mind before the expiration of his sentence, of which the period of his detention in such lunatic asylum shall be reckoned as part, the Governor shall thereupon issue his warrant to the superintendent of the lunatic asylum, directing that such person shall be removed back from thence to the jail or other place of confinement from whence he shall have been taken, or shall give such other orders thereon as to the Governor shall seem fit. And the fiscal from whose custody any person shall be removed to such lunatic asylum shall, at the time of delivering over such person, furnish the superintendent of such asylum with a copy of the sentence under which such person shall have been imprisoned.

If they recover before expiration of sentence, they shall be re-transferred to jail.

39-00 Digitized by Google

Lunacy.

Further proceeding at expiration of sentence, if the person shall not have recovered.

13 The superintendent of any lunatic asylum to which any person shall have been removed under the provisions of the preceding clause, and who shall not have recovered, shall, at least fourteen days before the expiration of the sentence under which such person shall have been imprisoned, report the same to the district court of the district in which such lunatic asylum shall be situated. And if the said district court shall, upon inquiry, be satisfied that such person is still of unsound mind, and that it is necessary to continue to keep him under control, the said district court may order such person to be detained in the lunatic asylum until discharged therefrom by order of the Governor.

Property of persons of unsound mind to be applied for their maintenance in lunatic asylums.

14 In all cases where any person shall be kept in custody as a person of unsound mind, and shall be transferred to any lunatic asylum, the district court shall make summary inquiry into his circumstances and as to his property, and if it shall appear that such person is possessed of sufficient property which can be applied for his maintenance, the district court shall order and direct so much of the same as shall be necessary to be applied to pay and satisfy the expenses of the maintenance and care of such person according to such usual allowance or rate as may be fixed and declared to be payable under the general regulations to be made by the Governor for such lunatic asylum.

15 Repealed by No. 3 of 1882.

Proceedings exempt from stamp and schedule duty.

16 No stamp duty shall attach or be payable for any application, process, or other document filed in court under the provisions of this Ordinance. Nor shall it be necessary to attach schedules to processes issued to the fiscal under such provisions.

Appointment of visitors.

Their duties.

17 It shall be lawful for the Governor to nominate and appoint one or more fit and proper persons to be visitors of any lunatic asylum, and any visitor so appointed to remove and to appoint another in his stead. Every visitor so appointed shall be at liberty to enter at all times any such asylum, and to make such inquiries or examination therein as to him shall appear necessary; and visitors are hereby required to visit such asylum at least once in every month, unless prevented by illness or other sufficient cause, and from time to time to make such reports to the Colonial Secretary as may be required by order of the Governor. Any superintendent or keeper of such asylum, or other person, who shall at any time refuse admittance to any such visitor, or offer to him any hindrance or obstruction, shall be guilty of an offence, and be liable to a fine not exceeding fifty rupees.

Penalty for refusing admittance to visitors, or obstructing them.

Governor to make regulations for conduct and management of lunatic asylums and officers.

18 It shall be lawful for the Governor, with the advice of the Executive Council, to make from time to time such regulations as to him shall seem expedient for the management and conduct of any lunatic asylum established in this island, and of the officers and visitors thereof.

9th January, 1873.

Digitized by Google

No. 3 of 1882.

An Ordinance to amend "The Lunacy Ordinance, 1873."

WHEREAS it is expedient to amend the Ordinance No. 1 of 1873, intituled "An Ordinance relating to the care and custody of Persons of unsound mind, and their Estates:" It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1 The 15th section of Ordinance No. 1 of 1873 is hereby repealed. Repealing clause.

2 From and after the passing of this Ordinance every order made by a district court under the provisions of "The Lunacy Ordinance, 1873," shall be subject to an appeal to the Supreme Court. Right of appeal from order of district court given—

3 Such appeal may be prosecuted by, or at the instance of (1) the person suspected or adjudged to be of unsound mind, or (2) of any relative or friend of his, or (3) of the Attorney-General or of any Crown counsel, or (4) of the Inspector-General of Police, or (5) of the Principal Civil Medical Officer, or (6) of the Inspector-General of Prisons, or (7) of any medical practitioner who shall have certified or testified to the state of mind of the person suspected or adjudged to be of unsound mind. to person affected thereby, to his relatives, to the Attorney-General, Inspector-General of Police, Principal Civil Medical Officer, or any medical practitioner concerned.

4 The time for, the rules of, and the practice relating to the filing and forwarding of an appeal from an interlocutory order of the district court shall apply to appeals prosecuted under this enactment. Appeal to follow rules for appeals from interlocutory orders.

5 The Supreme Court shall take cognizance of such appeal and deal with the same as an appeal from an interlocutory order of the district court, and make such order thereon as to the Supreme Court shall seem fit. And it shall be the duty of the district court to conform to and execute such order. Duty of Supreme and district courts in case of appeal.

6 This Ordinance and the Ordinance No. 1 of 1873 shall be read and construed as one Ordinance. Ordinance to be read as one with Lunacy Ordinance, 1873.

16th October, 1882.

No. 10 of 1889.

An Ordinance relating to the Expenses attendant upon the Conviction, or the Acquittal on the ground of Insanity, of Natives and Residents of Ceylon in a Foreign Country under the Foreign Jurisdiction Acts.

WHEREAS it is expedient to provide for the proper incidence of the expenses arising out of the trial and the conviction, or the acquittal on the ground of insanity, of persons who are natives of, or ordinarily resident in, this colony, when such persons have been tried by courts exercising jurisdiction out of Her Majesty's dominions under the Imperial Foreign Jurisdiction Acts: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1 If a person who is a native of, or ordinarily resident in, this colony commits an offence in a foreign country in which Her Majesty exercises jurisdiction over British subjects, and is either convicted, or is acquitted on the ground of insanity, by a competent court acting under the Imperial Foreign Jurisdiction Acts in such country, the expenses of his removal to the place in which he is to undergo his sentence or be confined as a criminal lunatic, and of his maintenance during his imprisonment or confinement, as the case may be, and any other expenses incident to his conviction, or to his acquittal on the The expenses attending conviction, or acquittal on the ground of insanity, of natives or residents of Ceylon by courts exercising jurisdiction in foreign countries under the Foreign Jurisdiction Acts to be paid out of general revenue.

Digitized by Google

ground of insanity, shall, as far as such expenses cannot be met out of the effects of such person under order of the court before which his trial takes place, be borne by the Government of this colony and paid out of the general revenue thereof.

Commencement. 2 This Ordinance shall come into operation at such time as the Governor shall, by Proclamation to be published in the *Government Gazette*, appoint.

8th October, 1889.

No. 5 of 1873.

An Ordinance to facilitate the construction and regulate the working of Tramways in Ceylon.

Preamble. WHEREAS the Municipal Council of the town of Colombo are under treaty with the promoters of a tramway scheme for that town, and it is expedient to pass an Ordinance to give the said promoters, or any other person or company, the necessary powers and facilities to make tramways, and to construct the necessary works therefor, and regulate the working thereof: It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Commencement. 1 This Ordinance shall come into operation on the date of the passing thereof:

Interpretation clause. 2 The following expressions in this Ordinance shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction:

(1) "Government" shall mean the Governor of this island, acting with the advice of the Executive Council.

(2) "Promoters" shall mean any person, corporation, or company, authorized by Proclamation in the *Government Gazette*, to be issued by the Governor, with the advice of the Executive Council, for that purpose, to construct and work tramways in any part of this island, and any person, corporation, or company claiming under the said promoters.

(3) "Council" shall mean any municipal council in this island.

(4) "Road" shall mean any carriage-way being a public highway, and the carriage-way of any bridge forming part of or leading to the same.

(5) "Road authority" shall mean the local authority, board, council, committee, or other body or persons in whom a road is vested, or who have the power to repair such road.

Power to break up streets, &c. 3 The promoters from time to time, for the purpose of making, forming, laying down, maintaining, and renewing

Digitized by Google

any tramway duly proclaimed, or any part or parts thereof respectively, may open and break up any road, subject to the following regulations:

(1) They shall give to the road authority notice of their intention, specifying the time at which they will begin to do so, and the portion of road proposed to be opened or broken up, such notice to be given fourteen days at least before the commencement of the work;

(2) They shall not open, or break up, or alter the level of any road, except under the superintendence and to the reasonable satisfaction of the road authority, unless that authority refuses or neglects to give such superintendence at the time specified in the notice, or discontinues the same during the work;

(3) They shall pay all reasonable expenses to which the road authority is put on account of such superintendence;

(4) They shall not, without the consent of the road authority, open or break up at any one time a greater length than one hundred yards of any road which does not exceed a quarter of a mile in length, and in the case of any road exceeding a quarter of a mile in length, the promoters shall leave an interval of at least a quarter of a mile between any two places at which they may open or break up the road, and they shall not open or break up at any such place a greater length than one hundred yards.

Completion of works and re-instatement of road.

4 When the promoters have opened or broken up any portion of any road, they shall be under the following further obligations; namely,

(1) They shall, with all convenient speed, and in all cases within four weeks at the most (unless the road authority otherwise consent in writing), complete the work on account of which they opened or broke up the same, and (subject to the formation, maintenance, or renewal of the tramway) fill in the ground and make good the surface, and, to the satisfaction of the road authority, restore the portion of the road to as good a condition as that in which it was before it was opened or broken up, and clear away all surplus paving or metalling, material, or rubbish occasioned thereby;

(2) They shall in the meantime cause the place where the road is opened or broken up to be fenced and watched, and to be properly lighted at night;

(3) They shall bear or pay all reasonable expenses of the repair of the road for six months after the same is restored, as far as those expenses are increased by the opening or breaking up.

If the promoters fail to comply in any respect with the provisions of the present section, they shall for every such offence (without prejudice to the enforcement of specific

Digitized by Google

performance, or to any other remedy against them) be liable to a penalty not exceeding two hundred rupees, and to a further penalty not exceeding fifty rupees for each day during which any such failure continues after the first day on which such penalty is incurred.

Repair of part of road where tramway is laid.

5 The promoters shall, at their own expense, at all times maintain and keep in good condition and repair, with such materials and in such manner as the road authority shall direct, and to their satisfaction, so much of any road whereon any tramway belonging to them is laid as lies between the rails of the tramway and (where two tramways are laid by the same promoters in any road at a distance of not more than four feet from each other) the portion of the road between the tramways, and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway. If the promoters (with the consent of the council under treaty with whom such tramway shall have been laid down, or the Government) abandon their undertaking, or any part of the same, and take up any tramway, or any part of any tramway belonging to them, they shall with all convenient speed, and in all cases within six weeks at the most (unless the road authority otherwise consent in writing), fill in the ground and make good the surface, and, to the satisfaction of the road authority, restore the portion of the road upon which such tramway was laid to as good a condition as that in which it was before such tramway was laid thereon, and clear away all surplus paving or metalling, material, or rubbish occasioned by such work; and they shall in the meantime cause the place where the road is opened or broken up to be fenced and watched and to be properly lighted at night. Provided always that if the promoters fail to comply with the provisions of this section, the road authority, if they think fit, may themselves at any time after seven days' notice to the promoters, open and break up the road, and do the works necessary for the repair and maintenance or restoration of the road, to the extent in this section above mentioned, and the expense incurred by the road authority in so doing shall be repaid to them by the promoters.

Penalty for obstruction of promoters in laying out tramway.

6 If any person wilfully obstructs any person acting under the authority of any promoters in the lawful exercise of their powers in setting out or making, forming, laying down, repairing, or renewing a tramway, or defaces or destroys any mark made for the purposes of setting out the line of the tramway, or damages or destroys any property of any promoters, he shall for every such offence be liable to a penalty not exceeding fifty rupees.

Penalty for wilful injury or obstruction to tramways, &c.

7 If any person without lawful excuse (the proof whereof shall lie on him) wilfully—

(1) Interferes with, removes, or alters any part of a tramway or of the works connected therewith; or

(2) Places or throws any stones, dirt, wood, refuse, or other material on any part of a tramway; or

Digitized by Google

(3) Does or causes to be done anything in such manner as to obstruct any carriage using a tramway; or to endanger the lives of persons therein or thereon ; or

(4) Knowingly aids or assists in the doing of any such thing ;

he shall for every such offence be liable (in addition to any proceeding by way of indictment or otherwise to which he may be subject) to a penalty not exceeding fifty rupees.

Penalty on passengers practising frauds on promoters.

8 If any person travelling or having travelled in any carriage on any tramway avoids or attempts to avoid payment of his fare, or if any person having paid his fare for a certain distance knowingly and wilfully proceeds in any such carriage beyond such distance, and does not pay the additional fare for the additional distance, or attempts to avoid payment thereof, or if any person knowingly and wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit such carriage, every such person shall for every such offence be liable to a penalty not exceeding twenty rupees.

Transient offenders.

9 It shall be lawful for any officer or servant of the promoters of any tramway, and all persons called by him to his assistance, to seize and detain any person discovered either in or after committing or attempting to commit any such offence as in the next preceding section is mentioned, and whose name or residence is unknown to such officer or servant, until such person can be conveniently taken before a justice of the peace, or until he be otherwise discharged by due course of law.

Penalty for bringing dangerous goods on the tramway.

10 No person shall be entitled to carry, or to require to be carried, on any tramway, any goods which may be of a dangerous nature, and if any person send by any tramway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the book-keeper or other servant with whom the same are left at the time of such sending, he shall be liable to a penalty not exceeding two hundred rupees for every such offence, and it shall be lawful for such promoters to refuse to take any parcel that they may suspect to contain goods of a dangerous nature, or require the same to be opened to ascertain the fact.

Penalty for persons using tramways with carriages with flange wheels, &c.

11 If any person (except under a lease from or by agreement with the promoters) uses a tramway or any part thereof with carriages having flange wheels, or other wheels suitable only to run on the rail of such tramway, such person shall for every such offence be liable to a penalty not exceeding two hundred rupees.

Promoters, &c., to be responsible for all damages.

12 The promoters shall be answerable for all accidents, damages, and injuries happening through their act or default or through the act or default of any person in their employment, by reason or in consequence of any of their works or carriages, and shall save harmless all road and other authorities, companies, or bodies, collectively and individually, and their officers and servants, from all damages and costs in respect of such accidents, damages, and injuries.

Digitized by Google

Right of user only.

13 Notwithstanding anything in this Ordinance contained, the promoters of any tramway shall not acquire or be deemed to acquire any right other than that of user of any road along or across which they lay any tramway, nor shall anything contained in this Ordinance exempt the promoters of any tramway, or any other person using such tramway, from the payment of such tolls as may be levied in respect of the use of such road.

Power of road authority to widen road reserved.

14 Nothing in this Ordinance shall take away or affect any power which any road authority, or the owners, commissioners, undertakers, or lessees of any railway, tramway, or inland navigation, may have to widen, alter, divert, or improve any road, railway, tramway, or inland navigation.

Power of local police to regulate traffic reserved.

15 Nothing in this Ordinance shall limit the powers of the police or of the officers of the municipal council in any district to regulate the passage of any traffic along or across any road along or across which any tramways are laid down, and such police or officers as aforesaid may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the promoters as to the traffic of other persons.

Right of public to use road reserved.

16 Nothing in this Ordinance shall take away or abridge the right of the public to pass along or across every or any part of any road along or across which any tramway is laid, whether on or off the tramway, with carriages not having flanged wheels or wheels suitable only to run on the rail of the tramway.

Specification of offences and penalties to be affixed to carriages.

17 The promoters shall be bound to affix to some conspicuous part of their carriages a paper in the English, Sinhalese, and Tamil languages, specifying the offences and penalties created by the 8th, 9th, and 10th clauses of this Ordinance, together with the table of fares.

Power of sale.

18 It shall be lawful for the promoters, with the consent of the Government, but not otherwise, to sell their undertaking to any person, corporation, or company; and when any such sale has been made, all the rights, powers, authorities, obligations, and liabilities of such promoters in respect to the undertaking sold shall be transferred to, vested in, and may be exercised by, and shall attach to the person, corporation, or company to whom the same has been sold, in like manner as if such tramway was constructed by such person, corporation, or company, and in reference to the same they shall be deemed to be the promoters.

Proceeding if promoters discontinue working of tramway, or of insolvency of promoters.

19 If at any time after the opening of any tramway for traffic the promoters discontinue the working of such tramway, or of any part thereof, for the space of three months (such discontinuance not being occasioned by circumstances beyond the control of such promoters, for which purpose the want of sufficient funds shall not be considered a circumstance beyond their control), and such discontinuance is proved to the satisfaction of the Government, or, if at such time as aforesaid, it appears to the Government that the

Digitized by Google

promoters are insolvent, so that they are unable to maintain such tramway, or work the same with advantage to the public, the said Government, if they think fit, may by order declare that the powers and privileges of the promoters in respect of such tramway or the part thereof so discontinued, or of such promoters so become insolvent, shall, from the date of such order, be at an end, and thereupon the said powers of the promoters shall cease and determine. Where any such order has been made, the Government (or if the tramway shall have been laid down in a municipal town under treaty with the council thereof, such council) may, with the sanction of Government, at any time after the date of such order take up and work the tramway, or cause the same to be removed, as it may consider right in the interests of the public. If the removal of the tramway or part thereof be determined upon, the Government or council as aforesaid shall cause the same to be removed, and the promoters shall pay to such Government or council the cost of such removal and of making good the road, and any damage sustained in consequence of any such discontinuance. Such cost shall be certified by some officer authorized by the Government, whose certificate shall be final and conclusive, and shall form a first charge on the property of the promoters; and if the promoters fail to pay the amount so certified within one month after delivery to them of such certificate or a copy thereof, the road authority may, without any previous notice to the promoters (but without prejudice to any other remedy which they may have for the recovery of the amount), sell and dispose of the materials of the tramway or part of the tramway removed, either by public auction or private sale, and for such sum, and to such person, as the Government or council may think fit, and may out of the proceeds of such sale pay and reimburse themselves the amount of the cost, certified as aforesaid, and of the cost of sale; and the balance (if any) of the proceeds of the sale shall be paid over by the road authority to the promoters.

20 If the Government or council determine upon working the said tramway, as provided in the preceding section, such Government or council shall pay to the promoters the value (exclusive of any allowance for past or future profits of the undertaking or other consideration whatsoever) of all lands, buildings, works, materials, and plant of the promoters suitable to and used by them for the purposes of their undertaking; such value to be, in case of difference, determined by two arbitrators, one to be chosen by the Government or council taking over the tramway, and the other to be chosen by the promoters, and in case of difference between the arbitrators, of an umpire to be chosen by them. And for the purposes of such arbitration the provisions of "The Arbitration Ordinance, 1866"* (or any other Ordinance to be hereafter enacted in its stead), so far as the same are applicable hereto, shall be deemed to be in force and applicable to such arbitration as if the same were inserted herein.

Value how to be determined.

[* See No. 2 of 1889]

Digitized by Google

Council or Government may, however, work the tramway pending the three months specified in section 19.

21 Nothing in section 19 contained shall be held to prevent the Government, or, with its sanction, the council under treaty with whom any tramway shall have been laid down (if the Government shall be satisfied that it will be for the convenience of the public that it should continue to work the tramway), to assume charge of and work such tramway, at the expense of the promoters and on their account, immediately any tramway or part thereof is discontinued, or immediately the Government has reason to believe that the promoters of any tramway are insolvent, so that they are unable to maintain such tramway or work the same with advantage to the public, and until the expiration of the three months in the said section specified. And the promoters shall pay to the Government or council, as the case may be, the cost of such working, which said cost shall be certified by some authorized officer of the Government, whose certificate shall be final and conclusive, and shall form a first charge on the property of the promoters; and if the promoters fail to pay the amount so certified within one month of the delivery to them of such certificate or a copy thereof, the Government may (but without prejudice to any other remedy which they may have for the recovery of the amount) seize and sell and dispose of any property of the promoters not wanted for the working of the said tramway, and reimburse themselves the cost of the working certified as aforesaid, and of the cost of sale; and the balance, if any, of the proceeds of the sale shall be paid over by the road authority for and on account of the promoters.

Government to make regulations.

22 It shall be lawful for the Government, from time to time, to make such regulations as shall be necessary for the due working of tramways, and the traffic connected therewith, and the prevention of accidents.

3rd February, 1873.

No. 6 of 1873.

An Ordinance to prescribe the order in which the property of Public Defaulters may in certain cases be seized and sold.

(*See under No. 16 of 1865, page 520.*)

No. 11 of 1873.

An Ordinance to provide for the establishment and regulation of a Public Museum in Colombo.

Preamble.

WHEREAS it is expedient to provide for the establishment and regulation of a public museum in Colombo for the instruction and recreation of the people, and this Council has voted a sum of money for such purpose: It is

Digitized by Google

hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

1 This Ordinance may be cited for all purposes as "The Museum Ordinance, 1873." Short title.

2 This Ordinance shall come into operation on such day as shall be named by the Governor in a Proclamation to be by him for that purpose issued. Commencement of Ordinance.

3 It shall be lawful for the Governor, with the advice of the Executive Council, from such sums as shall be voted for such purpose by the Legislative Council, to establish a public museum in Colombo, to be called "The Colombo Museum," to be devoted to the illustration of the archæology, natural history, and products of Ceylon, and to the collection of a library of books of general information, and to appoint a curator, and to make such rules and regulations for the safety and use of the said museum, for the admission of visitors and others, for the payment of fees, and for such other matters in connection with the said museum as to them shall seem fit. Governor to establish a museum. To appoint a curator, and to make rules.

4 It shall be lawful for the Governor, with the advice of the Executive Council, from such votes as aforesaid, to purchase books, medals, coins, specimens of natural history, and other objects for the use of the said museum, and, if need be, to allow them to be exchanged for other books and other objects of interest, or to direct such books and objects to be sold, and the money arising from such sales to be employed in the purchase of other books or objects that may be proper to the said museum. Power to purchase books, medals, coins, specimens, and to exchange them for others, and to sell them and appropriate proceeds for the purchase of other books or objects.

5 The curator shall lay annually before the Governor, on or before the thirty-first day of March in each year, a general report of the condition and progress of the museum during the preceding year, together with a catalogue of the various objects acquired, and also an account of all moneys received and expended during the said period. Such report, catalogue, and account shall be annually published. Curator to lay annually before the Governor proceedings of meetings, catalogue of objects, and account of moneys expended.

6 Should the branch of the Royal Asiatic Society established in Ceylon desire to transfer their collections and library to the said museum, such of the objects and books of the said society as shall be considered by the curator as proper to the museum may be transferred to the said museum. Asiatic Society may transfer their books and collections to the museum.

7 In case of the transfer of the collections and books of the said branch to the said museum, the members of the said branch shall have access to the museum on all days of the week within the hours which shall be fixed by by-laws, and they shall have the use of a room for the regular meetings of the branch. The collections and books transferred shall be labelled as belonging to the branch, and an inventory shall be kept of the same, but they shall be under the sole charge of the curator, and shall not be removed from the museum excepting in pursuance of the rules and regulations made for the museum as hereinbefore provided; and should the said branch be dissolved, the books and Members of the society to have access to museum, and the use of a room for meetings, &c. Collections so transferred to be labelled and inventoried, but kept in charge of curator.

Digitized by Google

collections belonging to it shall be considered as appertaining to the museum. Provided that the curator shall, with the consent of the Governor, have power from time to time to remove such specimens as may no longer be required, in which case they shall be re-transferred to the branch.

Rules and regulations to be published in *Gazette.*

8 The rules and regulations made and fees established under section 3 shall be published in the *Government Gazette,* and, on such publication, they shall have the same force and effect as if they were embodied herein, and shall be binding upon and observed by all parties, and taken judicial notice of by courts, judges, and magistrates. Any breach of such rules and regulations shall subject the offender to a fine not exceeding fifty rupees.

Breaches of rules.

Fine for injuring any work of art, or object, or book, or other property of museum.

9 Any person damaging any work or object of art, or book, or other property appertaining to the said museum, shall be civilly liable to pay double the value of such work, object, book, or other property; and if the damage shall be shown to be wilful, he shall be further liable to a fine not exceeding one thousand rupees, or to imprisonment, with or without hard labour, for a term not exceeding one year, or to both.

17th September, 1873.

No. 21 of 1873.

An Ordinance to provide for the collection of the sums due to the Crown on Plumbago.

(*See No. 22 of 1877.*)

Preamble.

WHEREAS a certain sum in lieu of rent is now levied on all plumbago dug on Crown lands, and a royalty is due to the Crown on all plumbago dug on private lands, and the payment of these dues is largely evaded, and it is expedient to secure the same by collecting them as a royalty at the different ports of shipment: It is enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Dues on plumbago.

[* *See* § *1, 22 of 1877*]

1 There shall be raised, levied, and paid, as a royalty upon all plumbago of the produce of this island exported beyond seas, a duty of fifty* cents per hundredweight.

Bill of entry.

2 The person entering outwards any plumbago to be exported from any port in this island shall deliver to the collector a bill of the entry thereof, fairly written in words at length, expressing the name of the ship, and of the master, and of the place to which the mineral is to be exported, and of the person in whose name the mineral is to be entered, and the quantity and the value thereof; anything contained in the Ordinance No. 17 of 1869, entitled "An Ordinance for the general regulation of Customs in the Island of Ceylon," to the contrary notwithstanding; and shall at the same time pay down any sums which may be due as royalty upon the exportation of any such plumbago. And such person shall

Value.

Duplicate.

Digitized by Google

also deliver, at the same time, one or more duplicates of such entry, in which all sums and numbers may be expressed in figures; and the particulars to be contained in such entry shall be written and arranged in such form and manner, and the number of such duplicates shall be such as the collector shall require; and such entry, being duly signed by the collector, shall be the warrant for examination and shipment of such plumbago.

3 If any plumbago, which is subject to any sums due as royalty in respect of exportation, shall be laden, or water-borne to be laden, on board any ship before due entry shall have been made, and warrant granted, or before such plumbago shall have been duly cleared for shipment, or if such plumbago shall not agree with the bill of entry, the same shall be forfeited together with the package in which it is contained. Plumbago laden before entry forfeited.

4 This Ordinance and the Ordinance No. 17 of 1869 shall be read and construed as one Ordinance; and all the provisions of the said last mentioned Ordinance shall respectively be of full force and effect, with respect to the dues imposed by this Ordinance, and to the persons liable to the payment thereof, and to the fines and forfeitures hereby imposed, so far as the same are or shall be applicable in all cases not hereby expressly provided for; and shall be observed, applied, allowed, enforced, and put in execution, for the raising, levying, collecting, and securing the dues hereby imposed, and otherwise in relation thereto, so far as the same shall be consistent with this Ordinance, as fully and effectually to all intents and purposes as if the same had been herein repeated and specially enacted. Provisions of Ordinance 17 of 1869 to be in force and put in execution with regard to the dues hereby imposed.

5 This Ordinance shall come into operation on the first day of April, 1874. Ordinance when to come into operation.

22nd December, 1873.

No. 22 of 1877.

An Ordinance to amend the Ordinance No. 21 of 1873, intituled "An Ordinance to provide for the collection of the sums due to the Crown on Plumbago."

WHEREAS it is expedient to amend the Ordinance No. 21 of 1873, intituled "An Ordinance to provide for the collection of the sums due to the Crown on Plumbago:" It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1 From and after the passing of this Ordinance there shall be raised, levied, and paid as a royalty upon all plumbago of the produce of this island exported beyond the seas a duty of twenty-five cents per hundredweight instead of fifty cents, as provided by the said Ordinance No. 21 of 1873. Dues on plumbago to be 25 cents per cwt. instead of 50 cents.

2 This Ordinance shall be read and construed as one with the said Ordinance No. 21 of 1873. Ordinance to be read as one with Ordinance No. 21 of 1873.

21st December, 1877.

Digitized by Google

No. 1 of 1874.

An Ordinance to control Recruiting in Ceylon for the service of Foreign States.

Preamble.

WHEREAS it is expedient that the Governor in Council should exercise full control over recruiting in Ceylon for the service of foreign states : It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows :

Title of Ordinance.

1 This Ordinance may be called "The Foreign Recruiting Ordinance, 1874," and shall come into force on the passing thereof.

Definition of "foreign state."

2 In this Ordinance "foreign state" includes any person or persons exercising or assuming to exercise the powers of government in or over any country, colony, province, or people beyond the limits of Ceylon.

Governor empowered to prohibit or restrict attempt at recruiting.

3 If any person obtain or attempt to obtain recruits for the service of any foreign state in any capacity, the Governor, with the advice of the Executive Council, may by Proclamation either prohibit such person from so doing, or permit him so to do, subject to conditions which the Governor in Council as aforesaid may think fit.

Governor empowered to place general prohibition or restriction on recruiting.

4 The Governor, with the advice of the Executive Council, may from time to time, by Proclamation, either prohibit recruiting for the service of any foreign state, or impose upon such recruiting any conditions which he thinks fit.

Power to rescind or vary orders.

5 The Governor may, with the advice of the Executive Council, by Proclamation, rescind or vary any order made under this Ordinance in such manner as he thinks fit.

Penalties.

6 Whoever, in violation of any such prohibition or condition as aforesaid—

(*a*) Induces or attempts to induce any person to accept or to agree to accept, or to proceed to any place with a view to obtaining, any commission or employment in the service of any foreign state ; or

(*b*) Knowingly aids in the engagement of any person so induced by forwarding or conveying him, or by advancing money, or in any other way whatever ;

shall be guilty of an offence, and be liable to imprisonment for any term not exceeding seven years, or to fine to such amount as the court by which such offence shall be tried shall think fit, or to both.

7th November, 1874.

No. 1 of 1875.

An Ordinance to amend the Law as to Warehouse Warrants.

(*See under No. 17 of 1869, page 619.*)

Digitized by Google

No. 3 of 1875.

An Ordinance to amend the Ordinance No. 16 of 1865 in respect of the Assessment of certain Rates.

(*See under No. 16 of 1865, page 521.*)

No. 5 of 1875.

An Ordinance to declare the validity of certain Writings, Deeds, and Instruments purporting to be executed in conformity with the provisions of Ordinance No. 17 of 1852, and to amend the said Ordinance.

(*See under No. 7 of 1840, page 114.*)

No. 6 of 1875.

An Ordinance to repeal Ordinance No. 4 of 1874, and to provide for the improvement of the Colombo Harbour.

(*As amended by No. 20 of 1898.*)

(*See Schedule A of No. 20 of 1898.*)

WHEREAS it is expedient to repeal Ordinance 4 of 1874, intituled "The Colombo Harbour Ordinance, 1874," and to make provision for borrowing money from the Public Works Loan Commissioners in accordance with the terms of 37 and 38 Victoria, ch. 4: It is enacted by the Governor of Ceylon, with the advice of the Legislative Council thereof, as follows: Preamble.

1 This Ordinance may be cited for all purposes as "The Colombo Harbour Ordinance, 1875." Short title.

2 Ordinance No. 4 of 1874 is hereby repealed.

3 It shall be lawful for the Governor of Ceylon, with the advice of the Executive Council, to borrow from the Public Works Loan Commissioners in England, for the purpose of improving the harbour of Colombo, upon such terms as those Commissioners may require, any sum or sums of money not exceeding in the whole two hundred and fifty thousand pounds sterling; the amount so borrowed and the interest thereon being charged on and made payable out of the general revenue of this island. Power to Government to borrow money for improving harbour.

4 The Governor of Ceylon may advance out of the general revenue of the island such sums, not exceeding Rs. 250,000 at any one time, chargeable against the loan to be made by the Public Works Loan Commissioners, as may be required for the purpose of improving the harbour of Colombo; and the instalment of the said loan, which is received next after such payment, shall be applied in the first instance in repaying the sum so advanced. Power to Governor to make advances out of the general revenue, not exceeding Rs. 250,000 at any one time.

Digitized by Google

Governor to issue his warrant for the payment of an annuity of 5 per cent. for payment of principal and interest.

5 It shall be lawful for the Governor to issue his warrant upon the Treasury from time to time for the payment in sterling, to the Public Works Loan Commissioners, of such an annuity or annuities as will repay the whole sums advanced by the said Commissioners, with interest on the principal sums from time to time remaining unpaid, at the rate of £3. 10*s*. per cent. per annum, within thirty-five years from the date of the first advance.

Appropriation of money so borrowed.

6 The money borrowed under the authority of this Ordinance shall be appropriated for the purpose of improving the said harbour of Colombo, and for no other purpose.

Power to Government to raise, if necessary, additional sums for completing improvements, and paying principal and interest of advances.

7 It shall be lawful for the Governor, with the advice of the Executive Council, to raise by taxation in the colony such additional sums (if any) as may be required to pay the principal of and the interest on the said advances, and, either by taxation or by loan, such further sums as may from time to time be required for the purpose of completing the improvements of and for maintaining duly the said harbour; the amount borrowed in the case of a loan, together with the interest thereon, being charged on and made payable out of the general revenue of this island, but subsequent to the charge becoming due under this Ordinance to the Public Works Loan Commissioners.

8 Repealed by No. 20 of 1898.

Crown Agents to receive moneys and give acknowledgments.

9 The Crown Agents for the Colonies for the time being are hereby authorized to receive from time to time the moneys so borrowed as before provided, from the Public Works Loan Commissioners, and to give acknowledgments on behalf of the Ceylon Government for the same, defining in such acknowledgments the times and terms of repayment with interest, in accordance with the provisions of this Ordinance; and such acknowledgments so given shall operate to charge the general revenue of the island with repayment, subject and according to the provisions of this Ordinance, of the sum mentioned in such acknowledgment, and the interest thereon at the times and upon the terms specified in such acknowledgment.

1st July, 1875.

No. 1 of 1876.

An Ordinance for the raising by Debentures of a further sum of Four Hundred Thousand Pounds Sterling for the improvement of the Harbour of Colombo.

(*See No. 1 of 1881.*)

Preamble.

WHEREAS by "The Colombo Harbour Ordinance, 1875," the Government of Ceylon were empowered to borrow from the Public Works Loan Commissioners in England any sum or sums not exceeding in the whole two hundred and fifty thousand pounds, for the purpose of improving the harbour of Colombo, and also to raise, either

Digitized by Google

by taxation or by loan, such further sums as might from time to time be required for the purpose of completing the improvements of and for maintaining duly the said harbour, the amount borrowed in the case of a loan, together with the interest thereon, being charged on and made payable out of the general revenues of this island: And whereas a further sum is required for the purpose of the said improvements, and it is expedient to raise that sum by the creation and issue of debentures: And whereas by "The Colombo Harbour (Supplemental) Ordinance, 1874," provision was made for raising that sum, but it is expedient that that Ordinance be repealed, and the provisions hereinafter contained substituted therefor: It is therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Power to borrow £400,000 on debentures.

1 It shall be lawful for the Governor of Ceylon to raise by the issue of debentures under this Ordinance any sum or sums not exceeding in the whole four hundred thousand pounds sterling, to be applied exclusively in the construction of a breakwater and in other improvements of the harbour of Colombo, and in the purchase of such material, plant, rolling stock, and other things as may be required for or in connection with those works.

Loan to be a charge upon general revenues.

2 The principal moneys and interest secured by the debentures issued under this Ordinance are hereby charged upon and shall be payable out of the general revenues and assets of the Government of Ceylon.

Amount of each debenture and rate of interest.

3 Every debenture issued under this Ordinance shall be for a sum not less than one hundred pounds sterling, and shall bear interest at a rate not exceeding five per centum per annum.

Issue and signature of debentures.

4 The debentures shall be issued in London on behalf of the Government of Ceylon by the Crown Agents for the Colonies (in this Ordinance referred to as the Crown Agents), and shall be signed by them on that behalf.

Registry of debentures.

5 Every debenture shall, before being issued, be registered in a register book to be kept for that purpose at the office in London of the Crown Agents.

Interest coupons.

6 There shall be attached to every debenture coupons for the payment of the interest to become due in each half-year upon the principal secured by the debenture. The coupons shall be sufficient in number to provide for the payment of the interest either during the whole period for which the debenture has to run, or for such limited period as the Crown Agents, acting on behalf of the Government of Ceylon, may determine.

Form of debentures and coupons.

7 The debentures, and the coupons thereto, may be in such form as the Governor, or the Crown Agents acting on his behalf, may direct or approve.

Debentures and coupons transferable by delivery.

8 Every debenture and coupon, and the right to receive the principal and interest secured or represented thereby, shall be transferable by delivery.

Digitized by Google

Colombo Harbour.

Mode of providing for payment of interest and principal.

[*See* §1, 1 *of* 1881]

9 So long as any of the debentures remain outstanding, the Governor shall in each half-year ending with the day on which the interest of the debentures falls due appropriate out of the general revenues and assets of this colony a sum equal to one half-year's interest on the whole of the debentures previously issued, including any which may have been redeemed, and remit that sum to the Crown Agents at such time as will enable them to pay thereout the then current half-year's interest on the day when it falls due. After the expiration of five years from the day on which the first of the debentures is issued, and so long thereafter as any of the debentures remain outstanding, the Governor shall, in each half-year ending as aforesaid, appropriate out of the revenues and assets of this colony an additional sum equal to ten shillings sterling per centum on the total nominal amount of all the debentures issued on or before the first day of that half-year, including any which may have been redeemed, and remit that sum to the Crown Agents with the remittance hereinbefore mentioned.

Application of moneys remitted to Crown Agents.

10 The Crown Agents shall, subject to the approval of Her Majesty's Principal Secretary of State for the Colonies for the time being, place and keep the moneys so remitted to them, or so much thereof as may not be required for immediate payments, on deposit at interest in their names with some bank or banks in London or Westminster, and shall hold all such moneys and the accumulations thereon in trust, to apply them in the first place in payment of the interest for the current half-year upon the debentures for the time being outstanding, and in the next place in the formation of a sinking fund.

Payment of interest.

11 The interest upon the principal secured by each debenture shall run from the day named in that behalf in the debenture, and shall be paid half-yearly, on the days named in that behalf in the debenture, at the office in London of the Crown Agents.

Application of sinking fund.

12 The sinking fund shall be applied in the first place in payment of all expenses of, or incidental to, the redemption of debentures, including the charges of the notary public attending at any drawing thereof, and the costs and expenses of all notices required by this Ordinance to be given, and in the next place, and subject to the aforesaid payments, in repayment of the principal moneys for the time being secured by the debentures.

Debentures to be redeemed by purchase or by annual drawings.

13 The debentures shall, at the option of the Crown Agents, subject to the approval of Her Majesty's Principal Secretary of State for the Colonies for the time being, be redeemed either by purchase in the open market or by annual drawings, and, subject to the aforesaid payments, the sum to be applied annually to such redemption shall correspond as nearly as may be to, but not exceed, the amount for the time being standing to the credit of the sinking fund.

Digitized by Google

Colombo Harbour.

14 So long as any of the debentures remain outstanding and unsatisfied, the Crown Agents shall in every year, after the day on which the first of the debentures is issued, unless the whole of the money applicable in that year to the redemption of debentures has been applied in the purchase thereof, appoint a day in that year for the drawing by lot of the debentures to be redeemed.

Appointment of day for drawing of debentures.

15 If a day is appointed for drawing, the Crown Agents shall give, by advertisement in the London *Times* newspaper, not less than fifteen days' previous notice, specifying the day on which, and the hour and place at which, the drawing will take place, and the nominal amount of the debentures to be redeemed at that drawing.

Notice of time and place appointed for drawing.

16 On the day and at the hour and place so specified the Crown Agents shall hold a meeting, at which the holder of any debenture may, if he think fit, be present, and shall then in the presence of such debenture-holders (if any) as may attend, and of a notary public, draw by lot out of the whole number of debentures for the time being outstanding debentures of the specified nominal amount.

Mode of drawing.

17 The Crown Agents shall thereupon declare the distinguishing numbers of the debentures drawn for redemption, and shall as soon as may be, by advertisement in the London *Times* newspaper, specify those numbers and appoint a day (not being later as to each debenture than the day on which the then current half-year's interest thereon is payable) on which the principal moneys secured by the debentures so distinguished will be repaid.

Notice of debentures drawn for redemption.

18 On the day so appointed the Crown Agents shall, at their office in London, on demand, pay to the holders of the debentures drawn for repayment the principal moneys secured by those debentures with all interest payable thereon up to that day.

Payment of drawn debentures.

19 From and after the day appointed for the repayment of any debenture, all interest on the principal moneys secured thereby shall cease and determine, whether payment of the principal have or have not been demanded.

Cesser of interest from day appointed for payment of principal.

20 Upon the repayment of the principal moneys secured by any debenture, the debenture with all the coupons thereunto belonging shall be delivered up to the Crown Agents, to be by them cancelled and forwarded to the Government of Ceylon. Any debenture redeemed by purchase shall likewise be so cancelled and forwarded.

Redeemed debentures to be cancelled.

21 No money applied in redemption of a debenture shall be reborrowed, and no debenture shall be issued in respect of, or in substitution for, any cancelled debenture.

Money repaid not to be reborrowed.

22 "The Colombo Harbour (Supplemental) Ordinance, 1874," is hereby repealed.

Repeal of Ordinance No. 5 of 1874.

23 This Ordinance may be cited as "The Colombo Harbour (Supplemental) Ordinance, 1876."

Short title.

23rd June, 1876.

Digitized by Google

No. 1 of 1881.

An Ordinance to amend the Ordinance No. 1 of 1876, intituled "An Ordinance for the raising by Debentures of a further sum of Four Hundred Thousand Pounds Sterling for the improvement of the Harbour of Colombo."

Preamble.

WHEREAS it is desirable to amend in manner hereinafter appearing so much of the 9th clause of the Ordinance No. 1 of 1876 as would apply to the formation of a sinking fund for the repayment of money to be raised on debentures under the said Ordinance after the passing hereof: It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Date of first appropriation for sinking fund on future debentures under Ordinance No. 1 of 1876 assimilated to that prevailing for debentures first issued under Ordinance No. 9 of 1878.

1 The time for the appropriation of ten shillings sterling per centum provided by the said 9th clause for the formation of a sinking fund for the redemption of debentures issued under the authority of the said Ordinance shall, in respect of debentures issued after the passing of this Ordinance, begin after the expiration of five years from the day on which the first of the debentures under Ordinance No. 9 of 1878, intituled "An Ordinance for the raising by Debentures of a sum of One Million Pounds Sterling for the construction of a Railway from Nawalapitiya to Nanu-oya," was issued.

26th October, 1881.

No. 3 of 1876.

An Ordinance to provide for the Acquisition of Land for Public Purposes.

(*As amended by No. 6 of 1877 and No. 3 of 1883.*)

(*See No. 6 of 1877.*)

Preamble.

WHEREAS it is expedient to amend the law relating to the acquisition of land for public purposes, and for determining the amount of compensation to be made on account of such acquisition: It is enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

I.—*Preliminary.*

Short title.

1 This Ordinance may be cited for all purposes as "The Land Acquisition Ordinance, 1876."

Repeal of Ordinance No. 2 of 1863.

Reference to repealed Ordinance to apply to this Ordinance.

2 The Ordinance No. 2 of 1863, intituled "An Ordinance to enable the Crown to take possession of private lands for public uses, and to survey and assess lands wanted by private proprietors to secure access to their properties through the lands of others," is hereby repealed, except so far as relates to any proceedings or matters which shall have taken place thereunder before this Ordinance shall come into force. All reference made to the said Ordinance No. 2 of 1863 in subsequent Ordinances, orders, or contracts, shall be read as if made to this Ordinance.

Interpretation clause: "Land."

3 In this Ordinance—

The expression "land" includes any interest in or benefits to arise out of land, and also things attached to the earth or permanently fastened to anything attached to the earth.

Digitized by Google

The expression "person interested" includes all persons, corporations, and companies claiming an interest in compensation to be made on account of the acquisition of land under this Ordinance, whether beneficially or in trust for other persons, corporations, or companies, or for charitable, religious, or other purposes. "Person interested."

The expression "government agent" means the government agent of the province or the assistant agent of the district wherein the land proposed to be taken is situated. "Government agent."

The expressions "district judge" and "district court" mean respectively the district judge and district court of the district within which such land is situated. "District judge" and "district court."

II.—*Acquisition.*

4 Whenever it shall appear to the Governor that land in any locality is likely to be needed for any public purpose, it shall be lawful for the Governor to direct the Surveyor-General or other officer generally or specially authorized by the Governor in this behalf, to examine such land and report whether the same is fitted for such purpose. And it shall thereupon be lawful for the Surveyor-General or such officer and for his servants and workmen— Survey of land to be made.

(*a*) To enter upon and survey and take levels of any land in such locality; Power of surveyor.

(*b*) To dig or bore into the sub-soil;

(*c*) To do all other acts necessary to ascertain whether the land is adapted for such purpose;

(*d*) To set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon;

(*e*) To mark such levels, boundaries, and line by placing marks and cutting trenches;

(*f*) And, where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence, or jungle.

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling house (unless with the consent of the occupier thereof) without previously giving such occupier or leaving on the premises at least seven days' notice in writing of his intention to do so. Proviso.

5 The Surveyor-General or other officer so authorized as aforesaid shall pay for all necessary damage to be done as aforesaid, and in case of any dispute as to the sufficiency of the amount to be paid he shall at once refer the dispute to the decision of the government agent, and such decision shall be final. Compensation to be made for damage done by surveyor.

Digitized by Google

Surveyor's report; proceedings thereupon.

6 The Surveyor-General or other officer so authorized as aforesaid shall then make his report to the Governor, whether the possession of the land is needed for the purposes for which it appeared likely to be needed as aforesaid. And upon the receipt of such report it shall be lawful for the Governor, with the advice of the Executive Council, to direct the government agent to take order for the acquisition of the land.

Notice to be given in *Gazette* of intention to take possession and hear claims for compensation.

7 The government agent shall thereupon cause public notice to be published in the *Government Gazette*, and to be posted at convenient places on the land to be taken, or as near thereto as practicable, stating that the Government proposes to take possession of the land, and that claims to compensation for all interests in such land may be made to him. Such notice shall be published in the English, Sinhalese, and Tamil languages respectively, and shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the government agent at a time and place therein mentioned (such time not being earlier than twenty-one days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests.

Summary inquiry as to value of land and amount of compensation to be made. Tender of compensation.

8 On the day so fixed the government agent shall proceed to inquire summarily into the value of the land, and to determine the amount of compensation which, in his opinion, should be allowed therefor, and shall tender such amount to the persons interested, who have attended in pursuance of the notice. For the purpose of such inquiry the government agent shall have power to summon any witnesses he may think fit; and any witness disobeying such summons without sufficient cause shall be guilty of an offence and liable to a fine not exceeding fifty rupees. Provided always that the government agent may for any cause he thinks fit from time to time postpone the inquiry to a day to be fixed by him.

Matters to be taken into consideration in determining compensation.

9 In determining the amount of compensation the government agent shall take into consideration the matters mentioned in section 21, and shall not take into consideration any of the matters mentioned in section 22.

Award of government agent where parties agree.

10 If the government agent and the persons interested agree as to the amount of compensation to be allowed, such agreement shall be recorded in writing and signed by the government agent and the persons interested, and the government agent shall make his award in pursuance thereof. Such award shall be filed in the government agent's office, and shall be conclusive evidence, as between the Government and the persons interested, of the value of the land and the amount of compensation allowed for the same.

Reference to the district court in what cases.

11 When the government agent proceeds to make the inquiry as aforesaid, whether on the day originally fixed for the inquiry or on the day to which it may have been postponed—

Digitized by Google

If no claimant attends;
Or, if the government agent considers that further inquiry as to the nature of the claim ought to be made by the district court;
Or, if any person whom the government agent has reason to think interested does not attend;
Or, if the government agent is unable to agree with the persons interested, or any of them, who have attended in pursuance of the notice, as to the amount of compensation to be allowed;
Or, if upon the said inquiry any question respecting the title to the land or any rights thereto or interests therein arise between or among two or more persons;

the government agent shall refer the matter to the determination of the district court in manner hereinafter appearing.

12 At any time after the government agent has made an award under section 10, or a reference to the court under section 11, and has notified the same to the Governor, it shall be lawful for the Governor, with the advice of the Executive Council, to direct that the land be taken possession of by some officer of the Crown for and on behalf of Her Majesty. And the said officer shall sign a certificate substantially in the form A in the schedule hereto, and the said land shall thereupon vest absolutely in her said Majesty free from all encumbrances. After award or reference to court, Government to take possession of the land.

III.—*Reference to Court and Procedure thereon.*

13 In making a reference under section 11 the government agent shall state for the information of the district court in writing under his hand— Form of reference to the district court.

(*a*) The situation and extent of the land needed;
(*b*) The names of the claimants or of any other persons whom he has reason to think interested in such land;
(*c*) The amount awarded for damages under section 5, the amount of compensation tendered for the land under section 8, or, if no claimant has attended pursuant to the notice mentioned, or if any claimant has failed to satisfy the government agent that he is entitled to receive the compensation, then the government agent shall state the amount which he is willing to give to the persons interested.

14 The district court shall thereupon cause to be served on each of the persons so named as aforesaid a notice requiring him (if he has not made a claim under section 8) to state to the court on or before a day to be therein mentioned the sum which he claims as compensation for his interest in the land so needed. The court shall also cause a notice to be served on the government agent and each of such persons, requiring them to appoint on or before a day to be therein mentioned two qualified assessors (one to be nominated by the government agent and the other by the persons Proceedings of court on reference. Notices. Notice to appoint assessors.

Digitized by Google

interested, or, if they cannot agree, by a majority of such persons) for the purpose of aiding the district judge in determining the amount of compensation. Such notice shall be served at least seven days before the day mentioned therein for claims to be made or assessors to be appointed. All persons of respectability who have attained the age of twenty-one years, and are not pecuniarily interested in determining the amount of compensation, are qualified to act as assessors.

Proceeding when no claimant has appeared.

15 If no claimant has attended pursuant to the notice mentioned in section 7, the district court shall cause to be affixed on some conspicuous place on or near the land needed a notice to the effect that, if the persons interested in such land do not, on or before a day to be therein mentioned, appear in court and state the nature of their respective interests in the land and the amount and particulars of their claims to compensation, and nominate an assessor, the court will proceed to determine such amount. Such notice shall be affixed at least seven days before the day mentioned therein for such appearance in court.

Power of judge to appoint an assessor in default of appointment by either party.

16 In case either party fail to nominate any assessor within the time so specified, the district judge shall himself appoint an assessor in his stead.

Determination of amount of compensation.

17 As soon as the assessors have been appointed the district judge and assessors shall proceed to determine the amount of compensation, having been first duly sworn or affirmed. And all proceedings in any district court had under this Ordinance shall be taken up before any other business of the said court, unless special circumstances of urgency in any particular case call, in the opinion of the judge, for a relaxation of this rule.

Appointment of new assessor in event of death, &c.

18 If before such amount is determined any assessor dies, or desires to be discharged, or refuses, or neglects, or becomes incapable to act, the party by whom he was appointed may appoint some other qualified person to act in his place. If the assessor so dying, or desiring to be discharged, or refusing or neglecting, or becoming incapable, were appointed by the judge, or, in the case of an assessor appointed by either party, if for the space of seven days after notice from the court for that purpose the party who appointed such assessor fails to appoint another, the judge shall appoint some other qualified person as assessor. Every assessor so substituted shall have the same powers as were vested in the former assessor at the time of his so dying, or desiring to be discharged, or refusing, or neglecting, or becoming incapable.

Proceedings to be in open court.

19 Every proceeding under section 17 shall take place in open court, and any advocate or proctor entitled to practice in such district court shall be entitled to appear, plead, and act in such proceeding.

Proceedings may be consolidated in certain cases.

20 Where the lands of several different persons are proposed to be taken for the same public purpose, and two or more of such persons agree upon appointing the same assessor, the proceedings in the district court for determining

Digitized by Google

the amount of compensation for the lands of the persons so agreeing may be consolidated and form the subject of one and the same inquiry, where the judge thinks that such a course will simplify or expedite the inquiry.

Matters to be considered in determining compensation.

21 In determining the amount of compensation to be awarded for land acquired under this Ordinance, the district judge and assessors shall take into consideration—

First, the market value at the time of awarding compensation of such land;

Secondly, the damage (if any) sustained by the person interested at the time of awarding compensation, by reason of severing such land from his own land;

Thirdly, the damage (if any) sustained by the person interested at the time of awarding compensation, by reason of the acquisition injuriously affecting his other property, whether movable or immovable, in any other manner, or his earnings; and

Fourthly, if in consequence of the acquisition he is compelled to change his residence, the reasonable expenses (if any) incidental to such change.

Matters to be neglected in determining compensation.

22 But the judge or assessors shall not take into consideration—

First, the degree of urgency which has led to the acquisition;

Secondly, any disinclination of the person interested to part with the land acquired;

Thirdly, any damage sustained by him, which, if caused by a private person, would not render such person liable to a suit;

Fourthly, any damage which, after the time of awarding compensation, is likely to be caused by or in consequence of the use to which the land acquired will be put;

Fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

Sixthly, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put; or

Seventhly, any outlay or improvements on such land made, commenced, or effected with the intention of enhancing the compensation to be awarded therefor under this Ordinance.

Rules as to amount of compensation.

23 When the person interested has made a claim to compensation pursuant to any notice mentioned in section 7 or in section 14, the amount awarded to him shall not exceed the amount so claimed or be less than the amount tendered by the government agent under section 8, or the amount which the government agent shall have offered to give under section 13. When the person interested has refused to make such claim, or has omitted without sufficient reason (to be allowed by the judge) to make such claim, the amount

Digitized by Google

awarded to him may be less than, and shall in no case exceed, the amount so tendered or so offered as aforesaid. When the person interested has omitted for a sufficient reason (to be allowed by the judge) to make such claim, the amount awarded to him shall not be less than, and may exceed, the amount so tendered or offered as aforesaid.

Record of assessors' opinions.

24 The opinion of each assessor shall be given orally and shall be recorded in writing by the district judge.

25-27 Repealed by No. 6 of 1877.

Payment of assessors.

28 Every assessor appointed under this Ordinance shall receive such fee for his services as the judge shall direct: Provided that such fee shall not exceed two hundred rupees, and such fee shall be deemed to be costs in the proceeding.

Costs.

29 The costs of all legal proceedings, when there has been a reference to the court, shall be taxed by the court. When the amount awarded does not exceed the sum tendered by the government agent or the sum which the government agent shall have offered to give under section 13, such costs shall be paid by the person or persons who shall have contested the amount. When the amount awarded exceeds the sum so tendered or offered as aforesaid, such costs shall be paid by the government agent. As between several persons interested, the court shall award the costs in such manner as shall appear just.

Form of award.

30 Every award made by the court shall be in writing, signed by the district judge and assessors or assessor concurring therein, and shall specify the amount awarded under the first clause of section 21, and also the amounts (if any) respectively awarded under the second, third, and fourth clauses of the same section, together with the grounds of awarding each of the said amounts. It shall also state the amount of costs incurred in the proceedings, and by what person and in what proportions they are to be paid. All costs (not deducted as hereinafter provided by section 38) may be recovered as if they were costs incurred in an ordinary suit, and as if the award were the decree therein.

31 Repealed by No. 6 of 1877.

Proceedings in district court analogous to those in ordinary civil suits.

32 The proceedings in any district court taken under this Ordinance shall be subject, so far as the same can be made applicable, to the rules, practice, and procedure provided for or observed at the time of such proceedings in ordinary civil suits, save and except that no stamp duties provided for law proceedings shall be required in proceedings taken under this Ordinance.

IV.—*Apportionment of Compensation.*

Particulars of apportionment to be specified.

33 When there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Digitized by Google

34 When the amount of compensation has been settled under section 10, if any dispute arises as to the apportionment of the same or any part thereof, the government agent shall refer such dispute to the decision of the district court.

Dispute as to apportionment when parties agree as to amount of compensation.

35 When the amount of compensation has been settled by the court, and there is any dispute as to the apportionment thereof, or when a reference to the court has been made under section 34, the district judge sitting alone shall decide the proportions in which the persons interested are entitled to share in such amount. And such decision shall be subject to appeal to the Supreme Court; and such appeal shall be prosecuted within the time and in the manner and subject to the rules and practice provided for or observed in appeals from interlocutory orders of district courts.

Dispute as to apportionment when compensation settled by court.

Appeal.

V.—*Payment.*

36 Payment of the compensation shall be made by the government agent according to the award to the persons named therein or, in the case of an appeal, according to the decision on such appeal, and after such payment has been made according to such award or such decision no further claim against the Government in respect of compensation for the land so taken shall be allowed at the instance of any person whomsoever. Provided that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Ordinance, to pay the same to the person lawfully entitled thereto.

Payment of compensation to whom made.

37 When the land taken is subject to any entail, settlement, or *fidei commissum*, the compensation payable in respect thereof shall be subject to the same entail, settlement, or *fidei commissum*, so far as the different nature of the property will admit; and such compensation shall be paid into court to abide its further orders as to the disposal or investment thereof. It shall also be lawful for the district judge in any case to require the compensation payable in respect of any land to be paid into court to abide its further orders, if the court shall think such course just or expedient.

38 In addition to the amount of compensation finally awarded, the government agent may, in consideration of the compulsory nature of the acquisition, pay ten per centum on the market value mentioned in section 21. When the amount of such compensation is not paid either to the persons interested or into court on taking possession, the government agent shall pay the amount awarded and the said percentage with interest on such amount and percentage at the rate of six per centum per annum from the time of so taking possession. Provided, however, that the costs (if any) payable to the government agent by the person interested shall be deducted from such amount and percentage. Provided also that in cases where the decision of the district court is liable to appeal, the government agent shall not pay the amount of compensation or the percentage, or any part thereof, until the time for appealing against such

Percentage on market value to be allowed.

Interest when payment delayed.

Costs to be deducted.

Digitized by Google

decision has expired and no appeal shall have been presented against such decision, or until any such appeal shall have been disposed of.

VI.—*Miscellaneous.*

39 In any district in which the government agent or the assistant government agent may also be district judge, such government agent or assistant government agent shall not act as district judge in any proceedings had under this Ordinance.

Service of notices.

40 Whenever it may be practicable, service of any notice under this Ordinance shall be made on the person therein named, or, in the case of his absence from the island, upon his duly constituted attorney or agent. When any person upon whom any such notice has to be served cannot be found, the service may be made on any adult member of his family residing with him; and if no such adult member can be found, the notice may be served by fixing the copy on the outer door of his present or last known place of dwelling or business within this island. When any person interested is out of the island, and the government agent has not, after reasonable inquiry, been able to ascertain whether such person has left any power of attorney or agent duly constituted, personal service of notice shall not be necessary for any of the purposes of this Ordinance.

41 Repealed by No. 3 of 1883, itself repealed by No. 15 of 1898.

42 If the surveyor or any of his assistants or any person acting under his or their orders shall, under the pretence of performing any duty or exercising any privilege imposed on or vested in him by or under this Ordinance, use unnecessary violence, or wantonly do any injury or give uncalled-for and vexatious annoyance, every such officer or person shall be guilty of an offence, and be liable on conviction thereof to any fine not exceeding fifty rupees.

Government not compellable to complete acquisition.

43 It shall not be compulsory on the Government to complete the acquisition of any land, for the acquisition of which any steps have been taken under the provisions of this Ordinance, unless the land has been taken possession of by the Government under section 12. But whenever the Government shall decline to complete such acquisition after any costs have been incurred by any person interested in the land by reason of any proceedings taken under the provisions of this Ordinance, the Government shall pay such costs, after taxation by the district court, to the person so interested.

Part of house or building not to be taken.

44 The provisions of this Ordinance shall not be put in force for the purpose of acquiring a part only of any house, manufactory, or other building, if the owner desire that the whole of such house, manufactory, or building shall be so acquired.

45 No informality or irregularity occurring in any proceedings taken under this Ordinance shall be held to invalidate or affect the title of the Government to any land taken under this Ordinance.

Digitized by Google

SCHEDULE.

Form A.

I hereby certify that I have this day taken possession, for and on behalf of Her Majesty, under and by virtue of the provisions of the Ordinance No. —— of ———, entitled ———, of the land and premises situated at ———, and bounded on the ———, and more particularly described in the annexed survey thereof.

Date : ———. (Signed) *C. D.*

23rd June, 1876.

No. 6 of 1877.

An Ordinance to amend "The Land Acquisition Ordinance, 1876."

WHEREAS it is expedient to amend "The Land Acquisition Ordinance, 1876 :" It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows : Preamble.

1 The 25th, 26th, 27th, and 31st sections of the said "Land Acquisition Ordinance, 1876," are hereby severally repealed. Repeal of 25th, 26th, 27th, and 31st sections of Ordinance No. 3 of 1876.

2 In case of any difference of opinion between the judge and assessors, or any of them, upon any question of law, or practice or usage having the force of law, or as to the amount of compensation to be awarded, the opinion of the judge shall prevail, subject to the appeal to the Supreme Court hereinafter provided. Provided, however, that if the two assessors agree together as to the amount of compensation, their opinion as to such amount shall be taken as the decision of the court, subject to appeal as hereinafter provided. When judge and assessors differ, opinion of judge to prevail, subject to appeal.

3 If the government agent or any person interested is dissatisfied with any award made by the court under the provisions of this Ordinance or the said "Land Acquisition Ordinance, 1876," he may appeal therefrom to the Supreme Court. Every such appeal shall be presented within the time and in the manner and subject to the rules and practice provided for and observed in appeals from interlocutory orders of district courts. Provided, however, that no stamp duties shall be required in any proceedings before the Supreme Court relative to such appeal. Appeal against award. Proviso: no stamps required.

4 Nothing in the 2nd section of the said "Land Acquisition Ordinance, 1876," shall be held or construed to prevent proceedings being taken under the said Ordinance for the acquisition of any land notwithstanding that any proceedings may have been commenced for the acquisition of such land under the said Ordinance No. 2 of 1863.* Operation of 2nd section of Ordinance No. 3 of 1876 with reference to proceedings already had under Ordinance No. 2 of 1863.

This Ordinance and the said "Land Acquisition Ordinance, 1876," shall be read and construed as if they formed one Ordinance. This Ordinance and Ordinance No. 3 of 1876 to be read as one Ordinance.

5th May, 1877.

* Repealed by No. 2 of 1876.

Digitized by Google

No. 4 of 1876.

An Ordinance to provide for the validity of the registration of certain Births and Deaths made by Asan Lebbe Mohammadu Tambi and Kasi Lebbe Usubu Lebbe, respectively.

Preamble.

WHEREAS by the Ordinance No. 18 of 1867,* intituled "An Ordinance relating to the registration of Births and Deaths," it is provided that the Registrar-General, the provincial registrars, and the district registrars of marriages shall also respectively be and act as Registrar-General, provincial and district registrars of births and deaths; and that the division of each province of this island into districts for the registry of marriages shall also form the division for the registry of births and deaths: And whereas provision is further made by the said Ordinance for the registration by district registrars of births and deaths occurring within the several districts respectively: And whereas Asan Lebbe Mohammadu Tambi was appointed registrar of births and deaths for the town and gravets of Negombo, and after his decease Kasi Lebbe Usubu Lebbe was appointed such registrar in his place: And whereas each of them, the said Asan Lebbe Mohammadu Tambi and Kasi Lebbe Usubu Lebbe, on divers occasions, owing to inadvertence, acted as registrar of births and deaths which occurred out of his jurisdiction (to wit), in the Dasiya pattu and the Dunagaha pattu, situate in Alutkuru korale in the district of Negombo, Western Province, and did register as such registrar divers of such births and deaths: And whereas it is expedient to remove all doubts as to the validity and sufficiency for all purposes of such registration, notwithstanding such irregularity as aforesaid: It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Irregular registration of births and deaths by the said persons declared valid.

1 The registration of all births and deaths which have occurred in the said Dasiya pattu and Dunagaha pattu, and have been registered either by the said Asan Lebbe Mohammadu Tambi or the said Kasi Lebbe Usubu Lebbe, shall be as valid and effectual for all purposes intended by or relating to or connected with the provisions of the said Ordinance No. 18 of 1867,* as if the said Asan Lebbe Mohammadu Tambi and the said Kasi Lebbe Usubu Lebbe had been respectively duly appointed registrars of the district wherein the said Dasiya pattu and Dunagaha pattu are situate, at the respective dates of such registration.

Registrar-General to rectify registers.

2 It shall be the duty of the Registrar-General to remove from the registers of births and deaths kept for the town and gravets of Negombo all the entries therein of the said births and deaths so irregularly registered as aforesaid, and to cause the same to be inserted in the registers for the said districts of Dasiya pattu and Dunagaha pattu respectively.

No other defect cured in such registration.

3 Nothing herein contained shall give any validity to

* Repealed by No. 1 of 1895.

Digitized by Google

the registration of the said births and deaths so irregularly registered as aforesaid, except so far as relates to defects thereof caused by the non-appointment of the said Asan Lebbe Mohammadu Tambi and the said Kasi Lebbe Usubu Lebbe to act as registrars respectively for the said districts of Dasiya pattu and Dunagaha pattu.

11th October, 1876.

No. 6 of 1876.

An Ordinance to regulate the sale of Poisons in Ceylon.

WHEREAS it is expedient for the safety of the public that due provision should be made to regulate the sale of poisons in this island: It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows: **Preamble.**

1 This Ordinance may be cited for all purposes as "The Sale of Poisons Regulation Ordinance, 1876," and shall come into operation on such day as the Governor, acting with the advice of the Executive Council, shall by Proclamation to be published in the *Government Gazette* appoint. **Short title.**

2 The several articles mentioned in the schedule A to this Ordinance annexed shall be deemed to be poisons within the meaning of this Ordinance; and the Governor may, from time to time, with the advice of the Executive Council, by Proclamation in the *Government Gazette*, declare that any article other than those mentioned in the said schedule shall be deemed a poison within the meaning of this Ordinance, and on the expiration of fourteen days from the date of the publication of such Proclamation the article therein named shall be deemed to be a poison within the meaning of this Ordinance. **What are to be deemed poisons under this Ordinance.**

3 It shall be unlawful for any person to sell any poison either by wholesale or retail in any province of this island without a license from the government agent of the province. Such license shall be granted to such persons only as the said government agent shall, after inquiry, be satisfied are persons of respectability; and the right of selling thereunder shall be made subject to such restrictions as the government agent shall deem expedient, having regard to the safety of the public. Such restrictions shall be inserted in and form part of the license. **No person to sell poison without a license.** **To whom such license may be granted.**

4 Every such license shall be in force for one year from the date thereof, shall set out the name and place of abode of the licensee, the house or shop in which the poisons may be sold, and the name of the poisons to be sold; and shall bear a stamp of five rupees. **License to be operative for one year from date thereof.** **Form of, and stamp on.**

5 It shall be unlawful to sell any poison either by wholesale or retail, unless it be contained in some box, bottle, vessel, wrapper, or cover, or other receptacle, distinctly labelled—Poison—in the English, Sinhalese, and Tamil languages, and also labelled in one of those languages at least **Receptacle of poison to be labelled.**

Digitized by Google

with the name of the article and the name and address of the seller; and it shall be unlawful to sell any of the poisons which are named in the first part of the schedule A hereto annexed, or which may hereafter be added thereto under section 2 of this Ordinance, to any person unknown to the seller, unless such person is introduced by some person known to the seller. Any person introducing a purchaser under this clause without *bonâ fide* knowing the name and place of abode of the person so introduced shall be guilty of an offence, and liable to a fine not exceeding fifty rupees. And in the event of any person being prosecuted under this clause the burden of proof shall be thrown upon the person so introducing a purchaser as aforesaid, to establish that he *bonâ fide* knew the person so introduced.

Poison in first part of schedule not to be sold to persons unknown.

Sale to be entered in book.

6 On every sale of any poison the seller shall before delivery make or cause to be made an entry in a book to be kept for that purpose, stating in the form set forth in the schedule B hereto annexed the date of the sale, the name and quantity of the article sold, and the purpose for which it is stated by the purchaser to be required; to which the signature of the purchaser and of the person (if any) who introduced him shall be affixed.

Penalty for selling poison contrary to the provisions of this Ordinance.

7 Any person selling poison without a license or contrary to the terms of his license, or in any manner otherwise than is by this Ordinance provided, shall be guilty of an offence, and shall be liable to forfeiture of his license and to a fine not exceeding fifty rupees for the first offence, and to a like forfeiture and fine, or to imprisonment, with or without hard labour, for a term not exceeding three months, or to both, for the second or any subsequent offence. For the purposes of this Ordinance the person on whose behalf any sale of poison is made by any shopman or servant in his employ, as well as such shopman or servant, shall be deemed a seller of such poison.

Poison sold on medical prescription exempted from the Ordinance.

8 Nothing contained in this Ordinance shall apply to any articles to be exported from Ceylon by wholesale dealers, nor to sales by wholesale to retail dealers in the ordinary course of wholesale dealing, nor to any medicine supplied by or on the written prescription of any person who has been duly qualified by any university, college, or body having legal authority in this behalf, in any part of the United Kingdom or any colony or dependency thereof, to practise as a physician, surgeon, medical practitioner, or veterinary surgeon, or who has received a certificate of competency from the Principal Civil Medical Officer or any colonial surgeon of this island authorized by the Principal Civil Medical Officer to grant such certificates; provided such medicine be distinctly labelled with the name and address of the seller, and the ingredients thereof be entered, with the name of the person to whom it is sold or delivered, in a book to be kept by the seller for that purpose.

Medicines supplied by

9 Nothing in this Ordinance contained shall apply to any medicine dispensed or supplied in or by any Government or

Digitized by Google

military hospital or dispensary, or any dispensary established in pursuance of the Ordinance No. 14 of 1872, intituled "An Ordinance to provide for the Medical Wants of the Coffee Districts," or licensed by Government for the sale of medicines. **hospitals exempted.**

10 No prosecution shall be entertained for any offence under this Ordinance unless instituted within two months from the date of the commission of the offence. **Limitation of prosecution.**

SCHEDULE A.

Part I.

Arsenic and its preparations ; prussic acid ; cyanides of potassium and all metallic cyanides ; strychnine and all poisonous vegetable alkaloids and their salts ; aconite and its preparations ; emetic tartar ; corrosive sublimate ; cantharides ; savin and its oil ; ergot of rye and its preparations.

Part II.

Oxalic acid ; chloroform ; belladonna and its preparations ; essential oil of almonds, unless deprived of its prussic acid ; laudanum ; preparations of corrosive sublimate ; preparations of morphine ; red oxide of mercury (commonly known as red precipitate of mercury) : ammoniated mercury (commonly known as white precipitate of mercury) ; every compound containing any of the poisons mentioned in this schedule, when prepared or sold for the destruction of vermin ; the tincture and all vesicating liquid preparations of cantharides.

SCHEDULE B.

Date	Name of purchaser.	Name and quantity of poison sold.	Purpose for which it is required.	Signature of purchaser.	Signature of person introducing purchaser.

20th November, 1876.

No. 8 of 1876.

An Ordinance to amend the Law as to Weights and Measures, and to provide for the more effectual prevention of False Weights, Measures, and Balances.

(*As amended by No. 14 of 1878.*)

(*See No. 14 of 1878.*)

WHEREAS it is expedient to amend the law as to weights and measures, and provide for the more effectual prevention of false weights, measures, and balances: It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows : **Preamble.**

1 From and after the time when this Ordinance shall come into operation within every part of the island of Ceylon the imperial standard yard established by the Statute of the **Imperial standard weights and measures**

Digitized by Google

Weights and Measures.

declared to be the standards in this island.

British Legislature of the 18th and 19th Vict., c. 72, intituled "An Act for legalizing and preserving the restored standards of Weights and Measures," shall be and is hereby declared to be the only standard measure of extension, from which all other measures of extension, whether lineal, superficial, or solid, shall be derived and computed; and the imperial standard pound avoirdupois by the said Statute established shall be and is hereby declared to be the only standard measure of weight, from which all other weights shall be derived and computed; and one equal seven-thousandth part of such pound avoirdupois shall be a grain, and 5,760 such grains shall be and be deemed to be a pound troy; and the imperial standard gallon established by the Statute of the British Legislature of the 5th George IV., c. 74, intituled "An Act for ascertaining and establishing uniformity of Weights and Measures," shall be and is hereby declared to be the only standard measure of capacity, from which all other measures of capacity shall be derived and computed; and the parts or multiples or proportions of the said standards shall be respectively computed according to the schedule to this Ordinance annexed.

Copies of imperial standards to be preserved in municipalities by the municipal chairman; in towns incorporated under the Local Health and Improvement Ordinance by the chairman of the local health and improvement board; and at all kachcheries.

2 For the purpose of enabling every person to ascertain with certainty whether any weights and measures in use or intended for use do conform to the standards hereby declared, copies of the standard weights and measures of brass, or of some other material or materials best adapted for preserving accuracy in the climate of this island, shall be provided by Government and shall be preserved as hereinafter provided; (that is to say,)

For each municipality, such standard weights and measures shall be preserved by the chairman of the municipal council at the office of the municipality.

For any town possessing a local health and improvement board established under the provisions of "The Local Health and Improvement Ordinance, 1876,"* such standard weights and measures shall be preserved by the chairman of such board at the office of such board.

And the government agent of each province shall likewise preserve such standard weights and measures at each and every kachcheri of his province.

Liberty to the public to have weights and measures tested by the standards.

3 Every person shall be at liberty, on giving reasonable notice, to have any weights or measures, which he may bring for that purpose, tested by comparison with the standards aforesaid and duly stamped in manner hereinafter provided.

Powers to the Governor in Executive Council to prescribe fees for testing weights and measures. In the absence

4 It shall be lawful for the Governor, by Proclamation published in the *Government Gazette*, with the advice of the Executive Council, from time to time to prescribe fees to be paid for the testing and stamping of weights and measures in any place as provided by this Ordinance; and any such Proclamation from time to time, with the like advice, to amend, alter, or revoke. Provided that such fees shall in no

* Repealed by No. 13 of 1898.

Digitized by Google

case exceed 25 cents for each weight or measure tested and stamped, and that in the absence of any Proclamation prescribing such fees, or in so far as any such Proclamation may not extend, such testing and stamping shall be free of charge.

of any Proclamation prescribing fees, testing to be gratis.

5 All contracts and dealings, which shall be made or had within any part of this island for any work to be done, or for any articles or things to be sold, delivered, done, or agreed for by weight or measure, where no special agreement shall be made to the contrary, shall be deemed to be made and had according to the standard weights and measures hereby established; troy weight being the measure of weight applicable to contracts and dealings relating to gold, silver, platina, diamonds, and other precious stones; apothecaries' weight applicable to contracts and dealings relating to the sale by retail of drugs; and avoirdupois weight applicable to contracts and dealings relating to all other articles.

Contracts to be construed with reference to standard weights and measures except where the contrary is specified.

6 All weights representing or intended to represent or be used as any of the weights mentioned in the schedule hereto, which shall be made after this Ordinance comes into operation, of the weight of one ounce avoirdupois or more, shall have the number of pounds or aliquot parts or multiples thereof contained in every such weight stamped or cast on the top or side thereof in legible figures and letters in the English, Sinhalese, or Tamil language; and all measures of capacity representing or intended to represent or be used as any of the measures of capacity mentioned in the said schedule shall, if made after this Ordinance comes into operation, have their contents denominated, stamped, or marked on the outside of such measures in legible figures and letters in the English, Sinhalese, or Tamil language.

Contents of weights and measures to be stamped on them.

7 From and after the passing of this Ordinance examiners of weights and measures shall be appointed as follows:

Examiners may be appointed.

The examiners for any municipality shall be appointed by the chairman of the municipal council thereof.

The examiners for any town possessing a local health and improvement board incorporated under the provisions of "The Local Health and Improvement Ordinance, 1876,"* shall be appointed by the chairman of such board.

The examiners for any other locality shall be appointed by the government agent of the province within which such locality may be situated.

The number of examiners for any municipality, town, or other locality shall be in the discretion of the authority empowered to appoint them, and may from time to time be increased or diminished at such discretion.

Examiners in municipalities to be appointed by the chairman, in towns incorporated under the Local Health and Improvement Ordinance by the chairman of the local health and improvement board, and in other towns by the government agent.

8 An examiner appointed under the 7th section of this Ordinance may be removed by the authority by which he was appointed.

Removal of examiners.

* Repealed by No. 13 of 1898.

Digitized by Google

Weights and Measures.

Weights and measures to be examined and stamped.

9 Good and sufficient stamps or dies of a pattern to be approved of by the Governor, acting with the advice of the Executive Council, for the stamping or sealing weights and measures, shall be provided and kept by the municipal council of every municipality, and by the local health and improvement board in every town possessing such board, and at every kachcheri; and all weights and measures representing or intended to represent or be used as any of the weights or measures mentioned in the schedule hereto, or any multiple or aliquot part thereof (except as hereinafter excepted), which shall be used for buying, selling, or receiving any goods or merchandise by weight or measure, shall be examined and compared with one or more of the copies of the standard weights and measures, provided under the authority of this Ordinance, by such examiners aforesaid, or by such other persons as shall be authorized in that behalf by such municipal council or local board or by the government agent of the province in places therein situate, where there is no municipality or local board, and such examiners or other authorized persons shall stamp in such manner as best to prevent fraud such weights and measures when so examined and compared, if found to correspond with the said copies.

Proviso.

Provided that nothing herein contained shall extend to require any single weight above fifty-six pounds to be inspected or stamped; and that nothing herein contained shall extend to require any wicker measure used in the sale of lime or other articles of a like nature, or any jug or drinking cup made of glass or earthenware or partly of metal and partly of glass or earthenware, though represented as containing the amount of any imperial measure or of any multiple or aliquot part thereof, to be stamped; but any person buying by any vessel represented as containing the amount of any imperial measure or of any multiple or aliquot part thereof is hereby authorized to require the contents of such vessel to be ascertained by a comparison with a stamped measure, such stamped measure to be found and provided by the person who shall use such wicker measure, glass jug, or drinking cup as aforesaid; and in case the person who shall use the last mentioned measure or vessel shall refuse to make such comparison, or if, upon such comparison being made, such wicker measure, glass jug, or drinking cup shall be found to be deficient in quantity, the person who shall use the same shall be guilty of an offence, and on conviction be subject to the forfeitures and punishment hereinafter imposed on any person using light or unjust or unstamped weights or measures. Provided also that nothing herein contained shall extend to require any weights or measures to be re-stamped, if the same shall have been constructed in England and shall bear the imperial stamp as provided by the 21st section of the Imperial Statute 5 and 6 William IV., c. 63, intituled "An Act to repeal an Act of the fourth and fifth year of his present Majesty relating to Weights and Measures, and to make other provisions instead thereof," or any other Imperial Statute to be enacted in that behalf.

Digitized by Google

10, 11 Repealed by No. 14 of 1878.

12 Upon any such conviction as in the preceding section mentioned, the court shall order the defective weight or measure, or weights or measures, or the false or unequal balance or balances, as the case may be, to be forfeited; and all weights or measures or balances so forfeited shall be broken and rendered useless. False weights and measures to be forfeited and broken up.

13 Any examiner of weights and measures, and any person legally authorized to examine and stamp any weights or measures, who shall stamp any weights or measures without duly verifying the same by comparison with a copy of the imperial standard in manner aforesaid, or shall be guilty of a breach of any duty imposed upon him by this Ordinance, or shall otherwise misconduct himself in the execution of his office, shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding fifty rupees for each offence. Penalty on examiners who are guilty of a breach of duty.

14 Any person or persons who shall make, forge, or counterfeit, or cause or procure to be made, forged, or counterfeited, or knowingly act or assist in the making, forging, or counterfeiting any stamp which may be used for the stamping or marking of any weights or measures under this Ordinance, shall be guilty of an offence, and shall be liable to a fine not exceeding five hundred rupees, or to imprisonment, with or without hard labour, for any period not exceeding one year, or to both; and any person who shall knowingly sell, utter, dispose of, or expose to sale any weight or measure with such forged or counterfeit stamp or mark thereon, shall be guilty of an offence, and be liable on conviction to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months, or to both; and all weights and measures with such forged or counterfeited stamps or marks shall be forfeited and broken up. Penalty on counterfeiting stamps, weights, or measures.

15 The Ordinance No. 2 of 1836 is hereby repealed. Repeal of Ordinance No. 2 of 1836.

16 This Ordinance shall come into operation on such a day as the Governor shall, with the advice of the Executive Council, by Proclamation,* appoint, and may be cited for all purposes as "The Weights and Measures Ordinance, 1876." Date of operation and short title.

Schedule of Imperial Weights and Measures.

LINEAL MEASURE.

Inches.										
12	=	1 Foot.								
36	=	3	=	1 Yard.						
198	=	16½	=	5½	=	1 Pole or Perch.				
7920	=	660	=	220	=	40	=	1 Furlong.		
63360	=	5280	=	1760	=	320	=	8	=	1 Mile.

* Proclaimed the 1st day of May, 1879.

Digitized by Google

Weights and Measures.

SUPERFICIAL MEASURE.

Inches.					
144 =	1 Foot.				
1296 =	9 =	1 Yard.			
39204 =	272¼ =	30¼ =	1 Pole.		
1568160 =	10890	= 1210 =	40	= 1 Rood.	
6272640 =	43560	= 4840 =	160	= 4 =	1 Acre.

AVOIRDUPOIS WEIGHT.

Drams.					
16 =	1 Ounce.				
256 =	16 =	1 Pound.			
3584 =	224 =	14 =	1 Stone.		
28672 =	1792 =	112 =	8 =	1 Cwt.	
573440 =	35840 =	2240 =	160 =	20 =	1 Ton.

TROY WEIGHT.

Grains.			
24 =	1 Pennyweight.		
480 =	20 =	1 Ounce.	
5760 =	240 =	12 =	1 Pound.

APOTHECARIES' WEIGHT.

Grains.				
20 =	1 Scruple.			
60 =	3 =	1 Drachm.		
480 =	24 =	8 =	1 Ounce.	
5760 =	288 =	96 =	12 =	1 Pound.

MEASURES OF CAPACITY.

Dry Measure.

Pints.					
2 =	1 Quart.				
8 =	4 =	1 Gallon.			
16 =	8 =	2 =	1 Peck.		
64 =	32 =	8 =	4 =	1 Bushel.	
512 =	256 =	64 =	32 =	8 =	1 Quarter.

Liquid Measure.

Pints.					
2 =	1 Quart.				
8 =	4 =	1 Gallon.			
504 =	252 =	63 =	1 Hogshead.		
1008 =	504 =	126 =	2 =	1 Pipe.	
2016 =	1008 =	252 =	4 =	2 =	1 Tun.

20th November, 1876.

No. 14 of 1878.

An Ordinance to amend "The Weights and Measures Ordinance, 1876."

(*As amended by No. 3 of 1883.**)

Preamble.

WHEREAS it is expedient to amend "The Weights and Measures Ordinance, 1876:" It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Commencement of Ordinance.

1 This Ordinance shall come into operation on the same day on which "The Weights and Measures Ordinance, 1876," shall come into operation, as provided by the 16th section of that Ordinance.†

* Repealed by No. 15 of 1898. † Proclaimed the 1st day of May, 1879.

Digitized by Google

2 This Ordinance and "The Weights and Measures Ordinance, 1876," shall for all purposes be read as one Ordinance. Ordinance to be read as one with the Ordinance No. 8 of 1876.

3 The copies of the standard weights and measures provided under the 3rd section of "The Weights and Measures Ordinance, 1876," shall for all the purposes of that Ordinance and of this Ordinance be deemed and taken to be true and correct copies of the standards which they purport or are intended to represent. Copies of standards provided by Government to be deemed true copies.

4 The 10th and 11th sections of "The Weights and Measures Ordinance, 1876," are hereby severally repealed. Repeal of sections 10 and 11 of Ordinance No. 8 of 1876.

5 In using a measure of capacity, the same shall not be heaped, but either shall be stricken with a round stick or roller, straight and of the same diameter from end to end, or, if the article cannot from its size or shape be conveniently stricken, shall be filled in all parts as nearly to the level of the brim as the size and shape of the article will admit. Heaped measure prohibited.

6 The examiners of weights and measures appointed under "The Weights and Measures Ordinance, 1876," may at any time, and shall at least twice in every year (having first been sworn or affirmed duly and faithfully to exercise such office) enter into or upon the store, shop, boutique, house, stall, or standing place of every person buying, selling, dealing in, despatching, carrying, delivering, or receiving by weight or measure any wares or goods within the district or locality for which such examiners are appointed, and then and there shall search for, view, and examine all weights, measures, balances, steelyards, and weighing machines in such premises, and shall seize any weight or measure representing or intended to represent or be used as any of the weights or measures mentioned in the schedule to "The Weights and Measures Ordinance, 1876," and not being according to the standards declared by that Ordinance, or not duly stamped as required by that Ordinance, or any false or unequal balance, steelyard, or weighing machines which may upon such search be found therein, and shall detain the same to be produced before the court at the trial of the offender under the following section. Examiners to examine weights and measures and seize false ones.

7 Repealed by No. 3 of 1883, itself repealed by No. 15 of 1898.

8 Every contract for the sale, purchase, carriage, despatch, or delivery of parchment coffee by the bushel, or for dealing in or doing anything to parchment coffee by the bushel, shall be deemed to be made according to the one-bushel measure and to no larger measure than the one-bushel measure, unless otherwise expressly stipulated in writing. In contracts affecting parchment coffee such coffee to be measured by one-bushel measures in absence of express stipulation.

19th December, 1878.

No. 9 of 1876.

An Ordinance to amend the Law relating to Cattle Trespass.

WHEREAS it is expedient to amend the law relating to cattle trespass: It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1 This Ordinance may be cited for all purposes as "The Cattle Trespass Ordinance, 1876." Short title.

2 The Ordinance No. 2 of 1835, intituled "To provide for the protection of cultivated and enclosed lands and of public roads and canals against the trespass and depredations of stray cattle, goats, sheep, and pigs," and the Ordinance No. 5 of 1849, intituled "To give jurisdiction to the Police Repeal of Ordinances No. 2 of 1835 and No. 5 of 1849.

Digitized by Google

Courts in cases of Cattle Trespass," are hereby severally repealed, except so far as they or either of them repeal other Ordinances or parts thereof, and except so far as relates to any acts which may have been done, liabilities incurred, or proceedings had or commenced before this Ordinance comes into operation.

Interpretation clause: "Cattle." "Animal."

3 The word "cattle," when used in this Ordinance, means bulls, cows, oxen, heifers, calves, and buffaloes:

The word "animal" means, except when it is otherwise expressed, cattle, sheep, goats, and swine:

"Irrigation works."

The expression "irrigation works" means tanks, bunds, anicuts, sluices, channels, and other works used for irrigation purposes:

"Duly authorized person."

The expression "duly authorized person" means any person specially or generally authorized to act under the provisions of this Ordinance by the government agent for the province or the assistant government agent for the district wherein such person resides.

Cattle trespassing on fenced or cultivated lands may be seized.

4 It shall be lawful for any proprietor or occupier (or any other person by his direction) of any land, which shall be fenced in such manner as the local custom may prescribe, and of any land under cultivation, whether fenced or not, if by local custom no fence is prescribed, to seize any animals found trespassing therein or thereupon, and to tie up and detain them until the damages, if any, occasioned by such trespass, assessed in manner hereinafter mentioned, and the fair expense of the keep of such animals during their lawful detention, shall be paid or recovered as hereinafter mentioned.

Cattle found trespassing on irrigation works may be seized or pursued off the works and seized.

5 It shall be lawful for any duly authorized person to seize any animals found trespassing in or upon any irrigation works, and, if unable to seize them while so trespassing, to pursue and seize them elsewhere and to tie them up and detain them, until the damages, if any, occasioned by such trespass, assessed in manner hereinafter mentioned, and the fair expense of the keep of such animals during their lawful detention, shall be paid or recovered as hereinafter mentioned.

Liability of owner of stray cattle for damages, and penalty.

6 The owner or person in charge of any animals trespassing as aforesaid shall, in the case of such private lands as aforesaid, be liable to pay to the proprietor or occupier thereof, and in the case of such irrigation works as aforesaid, be liable to pay to the government agent of the province or the assistant government agent of the district within which such works are situated, the full amount of damages arising by reason of such trespass; and if such trespass shall have been committed in the night time, he shall be further liable to pay a fine to Her Majesty equal to the amount of the damages awarded.

Procedure.

7 Notice of the seizure of such animals shall, with as little delay as possible, be given to some police constable or local headman having jurisdiction in the district, who shall,

Digitized by Google

as soon as may be, inspect the spot where the damage has been done, and the animals which have been seized, and with the assistance of three or more respectable persons of the neighbourhood, if their attendance can be procured (otherwise, without such assistance), endeavour to ascertain to whom the animals belong, and assess the amount of damages sustained by such trespass, and shall forthwith, in the case of trespass upon private lands, furnish the proprietor or occupier thereof or some other person in his behalf, and in the case of irrigation works, furnish some duly authorized person or some other person on his behalf, with a report of the particulars of the trespass, the amount of such assessment, and the names of the owners of the animals, if such have been ascertained, and also the names of the persons by whom such assessment shall have been made. The police constable or headman shall, unless the amount of the assessment be immediately paid, take charge of the animals so seized, and if the owner or person entitled to the charge thereof at the time of the trespass shall not, within forty-eight hours from the time of the police constable or headman so taking charge, tender the amount of damages so assessed as aforesaid and the fair and reasonable cost of keeping the said animals during detention, the proprietor or occupier of the land so trespassed upon, or, in the case of trespass upon irrigation works, some duly authorized person, shall produce before the police court or village tribunal, if any, having jurisdiction in the district, the aforesaid report, which, if verified by the oath or affirmation of such constable or headman in open court, shall be received in evidence; and the said court or village tribunal, after causing such notice to be served upon or left at the last known place of abode of the owner of the animals when such owner has been ascertained, as such court or village tribunal shall deem reasonable, or, if such owner has not after reasonable inquiry been ascertained, then without any notice, summarily inquire into the case and, after hearing such evidence as to the court or village tribunal may seem expedient, shall award such damages as shall have been proved to have been sustained, together with the fair and reasonable costs and charges for keep during the detention, and further a fine of an amount equal to such damages, in case the trespass shall have been committed in the night time; and the said damages, charges, and penalty, unless within twenty-four hours paid, shall be levied by sale of the animals so seized, and, if necessary, by distress on the other property of the person liable to pay the same as aforesaid, and shall be paid to the person or persons entitled thereto.

8 In any case when any trespass by animals shall be proved to have been committed as aforesaid, whether any damage shall be proved to have been sustained in consequence of such trespass or not, it shall be lawful for the police court or village tribunal to award a fine not exceeding five rupees for each animal which shall be proved to have been trespassing, to be paid by the owner or person in charge thereof; and it shall be competent for such court or tribunal in its discretion, in the case of trespass on

In cases where no damages have been proved, a fine may be imposed.

Digitized by Google

private land, to direct that a share, not exceeding one-half of such fine, be paid to the owner or occupier of the land and the remainder to Her Majesty.

Liability of owners of stray cattle which are not seized.

9 When, in the case of trespass on any private land, the proprietor or occupier thereof or other person acting in his behalf, and when, in the case of any trespass on any irrigation works, the person in charge thereof or other duly authorized person, is unable to seize and secure animals trespassing as aforesaid, but can prove the trespass, and whose or in whose charge the said animals were at the time of such trespass, the owners or persons in charge thereof shall be liable, notice being given of the trespass in the manner directed in section 7 of this Ordinance, to the same penalty, cost, and damages as in the case of seizure, and the course of proceeding in respect thereof shall be similar, as far as the circumstances admit, to that prescribed by section 7.

All rights under Ordinance forfeited unless due notice is given to headman.

10 All right to the benefit of any of the provisions of this Ordinance shall be forfeited unless the notice required by section 7 shall have been given within forty-eight hours from the time of seizure (if any) or of trespass (if no seizure) to some police constable or local headman having jurisdiction in the district, if any such shall be resident within ten miles, or if no police constable or headman be resident within that distance, then within a reasonable period after such seizure or trespass.

Ordinance not to apply to unfenced lands, where custom requires a fence.

And nothing herein contained shall be held to apply to any trespass on any private land which shall not be protected by such fence as the local custom prescribes, if such custom prescribes any fence.

Common law right reserved.

Provided always that nothing herein contained shall be held to take away or affect any right which the Crown or any person may have at common law for redress in respect of any damage sustained by trespass of animals.

All cattle over eighteen months old to be branded.

11 Every person possessing cattle not already branded, and being eighteen months old or upwards, shall cause the same to be branded, and shall furnish in the month of January of every year a correct description of the mark or marks with which his cattle are branded, to the chief headman of the district wherein he resides, and in default thereof shall be liable to a penalty not exceeding twenty-five cents for every head of cattle not branded, and to a penalty not exceeding two rupees for every omission to furnish such description. It shall be the duty of such chief headman of the district to cause the description of such brandmarks and the names of the persons using the same to be entered in a book to be kept for that purpose, which book shall be transmitted to the kachcheri of his province on or before the first of March in each year. The moiety of any penalty recovered under this section shall go to the informer. Provided always that nothing in this section contained shall extend or be applicable to any chief headman's division or part thereof which shall be within the operation of "The Village Communities' Ordinance, 1871."*

* Repealed by No. 24 of 1889.

Digitized by Google

12 Any person without lawful right removing or taking away or causing to be removed and taken away any cattle from the custody of the person entitled to keep or detain the same under the provisions of the Ordinance, shall be guilty of an offence, and liable on conviction to such punishment as a police court has jurisdiction to award.

Penalty for unlawful removal.

13 Any person without lawful right driving any animals upon any land in the occupation of or cultivated by others, with intent that such animals should feed upon or otherwise injure any growing crop or produce thereof; and any person driving any animals into or upon any irrigation works; and any person driving the animals of others upon his own land or conniving at such animals being so driven, with intent to take proceedings for cattle trespass under the provisions of this Ordinance, shall be guilty of an offence, and liable on conviction to such punishment as a police court has jurisdiction to award.

Penalty on causing animals to trespass.

14 It shall be lawful for the government agent or the police magistrate to grant permission in writing for the shooting of any stray cattle within his province or district, if it shall be shown to his satisfaction that stray cattle are in the habit of trespassing upon or in any such private land as aforesaid, or any irrigation works, and cannot be seized or identified, so that the owner or owners thereof may be ascertained and proceeded against; and thereupon such government agent or police magistrate may, at his discretion, direct some fit person to proceed to such land or irrigation works; and such person, if after every reasonable exertion he shall find it impracticable to seize or identify such animals, then and not otherwise shall shoot or otherwise destroy the same or cause the same to be shot or otherwise destroyed in his presence; and this notwithstanding that in the endeavour to seize the animals they may have been driven off such land or irrigation works. Provided that such order shall not be in force for more than one month from the date thereof. Provided further that it shall at all times be lawful for any proprietor or occupier of any cultivated field or enclosed garden, or any other person by his discretion, to destroy any pigs found straying therein; and for any duly authorized person to destroy any pigs found straying in or upon any irrigation work or any land set apart or lawfully used for the recreation of the public.

When animals may be shot.

Order for shooting not to be in force for more than one month.

Proviso: pigs trespassing may be shot without any order.

15 The carcase of any stray animal shot under the provisions of the preceding clause shall be the property of the owner of such animal, and he shall be entitled to remove the same; but if no owner be found, nor any claim made therefor by any person entitled to it, then the carcase shall be sold by the local headman where such animal was shot, and the proceeds of such sale shall be paid to the nearest kachcheri to be carried to the credit of the general revenue.

Disposal of carcase.

16 It shall be lawful for any duly authorized person to shoot or otherwise destroy, at all times of the year and without any license, any elephants or wild buffaloes found

Wild buffaloes trespassing on irrigation

Digitized by Google

works may be shot at all times without a license.

trespassing in or upon any irrigation work, anything in the Ordinance No. 13 of 1869,* entitled "An Ordinance to prevent the wanton destruction of Elephants," or in Ordinance No. 6 of 1872,* intituled "An Ordinance to prevent the wasteful destruction of Buffaloes and Game throughout the Island," to the contrary notwithstanding.

Police court or village tribunal may impose full amount of damages or penalty.

17 It shall be competent for the police court or village tribunal, taking cognizance of any case of trespass by animals under the provisions of this Ordinance, to award and impose the full amount of the damages, charges, and penalties payable under the 7th, 8th, and 9th sections hereof or any of them, notwithstanding that such amount might otherwise be beyond the jurisdiction of such court or tribunal to award or impose.

20th November, 1876.

No. 11 of 1876.

An Ordinance to amend the Law regulating the Entail and Settlement of Immovable Property.

(*See No. 3 of 1890.*)

Preamble.

WHEREAS it is expedient to amend the law regulating the entail and settlement of immovable property: It is therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Short title.

1 This Ordinance may be cited for all purposes as "The Entail and Settlement Ordinance, 1876," and shall come into operation from the date when the confirmation thereof by Her Majesty shall be proclaimed in the *Government Gazette*.†

Prohibition against alienation limited to existing lives.

2 No prohibition, restriction, or condition against the alienation of any immovable property declared by or contained in any will, deed, or other instrument, which shall be executed after the proclamation of this Ordinance, shall be effectual to prevent or restrict the alienation of such property for a longer period than the lives of persons who are in existence or *en ventre sa mère* at the time when such will, deed, or instrument is executed and are named, described, or designated in such will, deed, or instrument, and the life of the survivor of such persons.

Such prohibition void as to the excess beyond existing lives.

3 Any such prohibition, restriction, or condition against alienation as aforesaid shall be null and void, so far as it prohibits or restricts alienation for a longer period than that limited in the preceding section. But where the will, deed,

* Both repealed by No. 10 of 1891.
† Her Majesty's assent proclaimed 15th June, 1877.

Digitized by Google

or instrument in which any prohibition, restriction, or condition against alienation is contained does not name, describe, or designate the person or persons in whose favour or for whose benefit such prohibition, restriction, or condition is provided, such prohibition, restriction, or condition shall be absolutely null and void.

Persons in whose favour prohibition is created must be designated.

4 Whenever any immovable property is now or shall hereafter be held under or subject to any entail, *fidei commissum*, or settlement, whereby the alienation of such property is prohibited or in any way restricted, it shall be lawful for the district court of the district in which such property is situate, if it shall deem it proper and consistent with a due regard for the interests of all parties entitled under such entail, *fidei commissum*, or settlement, and subject to the provisions and restrictions hereinafter contained, from time to time to authorize a lease, exchange, or sale of the whole or any part or parts of such property, upon such terms and subject to such conditions as the said court shall deem expedient. Provided that every such lease shall be made to take effect in possession at or within one year next after the making thereof, and shall be for a term not exceeding twenty-one years; and that on every such lease shall be reserved the best rent or reservation in the nature of rent that can be reasonably obtained, to be made payable half-yearly or oftener to the person or persons then lawfully entitled to the same, without taking any fine or foregift or other benefit in the nature of a fine or foregift.

Entailed property may be leased or sold by order of the court.

5 Any person entitled to the possession or to the receipt of the rents and profits of any immovable property now or which may hereafter become subject to such entail, *fidei commissum*, or settlement as aforesaid, or of any share thereof, may apply to the district court by petition in a summary way to exercise the powers conferred by this Ordinance.

Persons in possession may apply for a lease or sale.

6 Before making any order authorizing any such lease, exchange, or sale as aforesaid, the district court shall require such notice, as it shall deem expedient, of the application to be given to all persons interested under the entail, *fidei commissum*, or settlement, who may be living at the time, and whose place of abode can, after reasonable inquiry, be ascertained. Such notice shall be sufficient if left at the last known place of abode in the island of the person to be affected thereby. Provided that if any person to whom notice has to be given shall be under the disability of minority, idiocy, or lunacy, it shall be sufficient if the notice is given to the guardian or curator of such person. It shall be competent for any person interested under the entail, *fidei commissum*, or settlement, to appear before the court and show cause against any such lease, exchange, or sale being authorized.

Notice of application to parties interested.

7 All money received under or by virtue of any sale effected under the authority of this Ordinance shall be applied, as the district court shall from time to time direct,

Application of proceeds of sale of entailed property.

Digitized by Google

to some one or more of the following purposes; (that is to say,)

(1) The discharge or redemption of any charge or incumbrance affecting the property, or affecting any other property subject to the same entail, *fidei commissum*, or settlement; or

(2) The purchase of other immovable property to be settled in the same manner as the property in respect of which the money was paid; or

(3) Investments in the Loan Board or in Government securities, the interest thereof being made payable to the party for the time being otherwise entitled to the rents and profits of the land sold; or

(4) The payment to any person becoming absolutely entitled.

Property received in exchange to become affected by the same settlement as that for which it was exchanged.

8 Any property taken in exchange for any property exchanged under the provisions of this Ordinance shall become subject to the same entail, *fidei commissum*, or settlement, as the property for which it was given in exchange was subject to at the time of such exchange.

Court to direct what persons should execute the lease or transfer.

9 On every lease, exchange, or sale to be effected as hereinbefore mentioned, the court may direct what person or persons shall execute the deed of lease, transfer, or assurance; and the deed executed by such person or persons shall take effect as if all the persons interested or who might become interested in the property under the will or instrument by which the entail, *fidei commissum*, or settlement was created, had joined in such lease, transfer, or assurance. The court may also direct by whom and in what proportions the cost of such lease, transfer, or assurance, and of the proceedings taken under this Ordinance, shall be paid. Such costs may be recovered in the same way as costs in ordinary civil actions brought in district courts.

Orders of district court subject to appeal.

10 Every order or direction of the district court made under any of the provisions of this Ordinance shall be subject to appeal to the Supreme Court, and such appeal shall be subject to and governed by the same rules and procedure as are applicable to appeals from interlocutory orders of district courts.

Stamp duty on petition to court.

11 Every petition to the district court made under section 5 shall bear a stamp of ten rupees; but no other stamp shall be required for any legal proceedings under this Ordinance.

Ordinance not to apply to corporations, &c.

12 Nothing in this Ordinance contained shall be held to apply to any immovable property held or possessed or which may hereafter be held or possessed by, or to any grant, devise, or conveyance to or for the benefit of any corporation, joint stock company, church or temple, or any charitable, religious, or educational institution.

6th December, 1876.

Digitized by Google

No. 15 of 1876.

An Ordinance to amend the Law relating to the Matrimonial Rights of Married Persons with regard to Property and the Law of Inheritance.

(*As amended by No. 2 of 1889.*)

(*See No. 2 of 1889 and No. 3 of 1890.*)

WHEREAS it is expedient to amend the law relating to the matrimonial rights of married persons with regard to property and the law of inheritance: It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows: Preamble.

I.—*Preliminary.*

1 This Ordinance may be cited as "The Matrimonial Rights and Inheritance Ordinance, 1876," and shall come into operation at such time as Her Majesty's confirmation thereof shall be proclaimed in the *Government Gazette* of this island.* Short title. Commencement.

2 Whenever a woman marries, after the proclamation of this Ordinance, a man of different race or nationality from her own, she shall be taken to be of the same race and nationality as her husband for all the purposes of this Ordinance, so long as the marriage subsists and until she marries again. Save as aforesaid, this Ordinance shall not apply to Kandyans or Mohammedans, or to Tamils of the Northern Province who are or may become subject to the Tesavalamai. Where persons of different race intermarry, laws to which the husband is subject to prevail. Ordinance not otherwise to apply to Kandyans or Mohammedans, or Tamils under the Tesavalamai.

3 In this Ordinance, unless there shall be something repugnant in the subject or context— Interpretation clause.

The expression "immovable property" includes land, incorporeal tenements, and things attached to the earth or permanently fastened to anything which is attached to the earth, and any interest in land except that of a mortgagee.

The expression "movable property" means property of every description except immovable property.

The expression "matrimonial rights" means the respective rights and powers of married parties in and about the management, control, disposition, and alienation of property belonging to either party, or to which either party may be entitled during marriage.

The word "unmarried" means not having a husband or wife living.

All words expressive of relationship shall apply to a child in the womb at the time in question who is afterwards born alive.

4 The 6th section of Ordinance No. 21 of 1844, intituled "An Ordinance to make better provision for the disposal of Repeal of certain sections

* Her Majesty's assent proclaimed 29th June, 1877.

Digitized by Google

of former Ordinances.

Landed Property," and the 8th section of the Ordinance No. 5 of 1852, intituled "To introduce into this Colony the Law of England in certain cases, and to restrict the operation of the Kandyan Law," are hereby repealed, so far as the same are inconsistent with the provisions of this Ordinance.

II.—*Matrimonial Rights of Husband and Wife in respect of Property.*

This Ordinance not to affect rights acquired under marriages solemnized before the proclamation of this Ordinance.

5 The respective matrimonial rights of any husband and wife with regard to property or status arising under or by virtue of any marriage solemnized before the proclamation of this Ordinance, and all rights which any other person may have acquired or become entitled to under or by virtue of any such marriage, shall (except where hereinafter otherwise expressly provided) be governed by such law as would have been applicable thereto if this Ordinance had not been passed.

Rights of husband and wife domiciled or resident in Ceylon in respect of movable property to be governed by this Ordinance.

6 The respective matrimonial rights of every husband and wife, domiciled or resident in this island, and married after the proclamation of this Ordinance, in, to, or in respect of movable property shall, during the subsistence of such marriage and of such domicile or residence, be governed by the provisions of this Ordinance.

Rights of husband and wife in respect of immovable property situate in Ceylon to be governed by this Ordinance.

7 The respective matrimonial rights of every husband and wife, married after the proclamation of this Ordinance, in, to, or in respect of any immovable property situate in this island shall, during such marriage, be governed by the provisions of this Ordinance.

Community of goods not a consequence of marriage.

8 There shall be no community of goods between husband and wife, married after the proclamation of this Ordinance as a consequence of marriage, either in respect of movable or immovable property.

Immovable property of the wife.

9 Any immovable property to which any woman, married after the proclamation of this Ordinance, may be entitled at the time of her marriage, or may become entitled during her marriage, shall, subject and without prejudice to the trusts of any will or settlement affecting the same, belong to the woman for her separate estate, and shall not be liable for the debts or engagements of her husband, unless incurred for or in respect of the cultivation, upkeep, repairs, management, or improvement of such property, or for or in regard to any charges, rates, or taxes imposed by law in respect thereof, and her receipts alone or the receipts of her duly authorized agent shall be a good discharge for the rents, issues, and profits arising from or in respect of such property. Such woman shall, subject and without prejudice to any such trusts as aforesaid, have as full power of disposing of and dealing with such property, by any lawful act *inter vivos* with the written consent of her husband, but not otherwise, or by last will without such consent, as if she were unmarried.

Wages and earnings of the wife.

10 The wages and earnings of any married woman, whether married before or after the proclamation of this Ordinance, which may be acquired or gained by her after

Digitized by Google

the proclamation of this Ordinance in any employment, occupation, or trade in which she is engaged or which she carries on separately from her husband, and also any money or property so acquired by her through the exercise of any literary, artistic, or scientific skill, shall be deemed and taken to be her separate property, independent of the debts, control, or engagements of her husband, and she shall have as full power of dealing with and disposing of the same or any investment thereof as if she were unmarried, and her receipts alone shall be a good discharge for such wages, earnings, money, and property and the principal and interest of any investments thereof.

Wife's jewels, implements of trade and agriculture, to form part of her separate estate.

11 All jewels and all personal or household ornaments and wearing apparel belonging to a woman, married after the proclamation of this Ordinance, at the time of her marriage, and also all jewels, personal ornaments, and apparel suitable in respect of value to her rank and condition of life, which she may acquire during marriage, whether by gift from her husband or otherwise, and all tools, implements, and appliances belonging to her during marriage, which may be requisite for the carrying on of any employment or trade in which she may be engaged separately from her husband, and all implements of husbandry, machinery, live and dead stock belonging to her during marriage and *bonâ fide* kept upon and employed for the cultivation or proper uses of any immovable property belonging to her for her separate estate, shall, subject and without prejudice to the trusts and provisions of any will or valid settlement affecting the same, belong to the woman for her separate estate independent of the debts, control, and engagements of her husband, and she shall have as full power of disposing of and dealing with the same by any lawful act *inter vivos* with the consent of her husband or by last will without such consent, as if she were unmarried.

When husband's consent may be dispensed with.

12 If in any case, in which the consent of a husband is required by this Ordinance for the valid disposition of or dealing with any property by the wife, the wife shall be deserted by her husband or separated from him by mutual consent, or he shall have lain in prison under the sentence or order of any competent court for a period exceeding two years, or if he shall be a lunatic or idiot, or his place of abode shall be unknown, or if his consent is unreasonably withheld, or the interest of the wife or children of the marriage require that such consent should be dispensed with, it shall be lawful for the wife to apply by petition to the district court of the district in which she resides, or in which the property is situate, for an order authorizing her to dispose of or deal with such property without her husband's consent; and such court may, after summary inquiry into the truth of the petition, make such order, and that subject to such conditions and restrictions, as the justice of the case may require; whereupon such consent shall, if so ordered and subject to the terms and conditions of such order, become no longer necessary for the valid disposition of or dealing with such

Digitized by Google

property by such woman. Every such petition shall require a stamp of ten rupees, but no further stamps shall be required for any legal proceedings under this section. Such order shall be subject to appeal to the Supreme Court in the same manner and subject to the same rules and procedure as interlocutory orders of district courts. Provided, however, that in any case, when a separation *a mensa et thoro* has been decreed by a competent court, the consent of the husband shall not be necessary to enable the wife, so separated, to deal with or dispose of her property.

Power of spouses to settle or gift property during marriage.

13 It shall be lawful for any husband or wife, whether married before or after the proclamation of this Ordinance, notwithstanding the relation of marriage and notwithstanding the existence of any community of goods between them, to make or join each other in making, during the marriage, any voluntary grant, gift, or settlement of any property, whether movable or immovable, to, upon, or in favour of the other; but all property so granted, gifted, or settled, and all acquisitions made by a husband or wife out of or by means of the moneys or property of the other, shall, except as otherwise provided by section 11, be subject to the debts and engagements of each spouse in the same manner and to the same extent as if such grant, gift, settlement, or acquisition had not been made or occurred.

Burden of proof on the wife.

14 Whenever any question shall arise between any woman, married after the proclamation of this Ordinance, or any person claiming under her and any creditor or alienee of her husband, as to the mode and time of the acquisition of any property claimed by such woman, it shall be incumbent upon such woman or person claiming under her to prove in what manner and at what time she became entitled to such property.

15 Repealed by No. 2 of 1889.

Disputes between husband and wife as to wife's estate to be settled summarily by district court.

16 If any question or dispute shall arise between any husband and wife (whether married before or after the proclamation of this Ordinance) relative to any property declared by this Ordinance to be the separate property of the wife, either party may apply by motion in a summary way to the district court of the district in which either party resides; and thereupon the district judge may make such order, direct such inquiry, and award such costs, as he shall think fit; and the district judge may, if either party so require, hear the application in his private room. Any order so made shall be subject to appeal to the Supreme Court, and for the purposes of such appeal shall be regarded as an interlocutory order of the district court. Every such motion shall require a stamp of ten rupees, but no further stamps shall be required for any other legal proceedings under this section.

Wife may effect a policy of Insurance.

17 A married woman (whether married before or after the proclamation of this Ordinance) may after the proclamation of this Ordinance effect a policy of insurance upon her own life or the life of her husband for her separate use;

Digitized by Google

and the same and all benefits thereof, if expressed on the face of it to be so effected, shall enure accordingly, and the contract in such policy shall be as valid as if made with an unmarried woman.

18 A policy of insurance, whether effected before or after the proclamation of this Ordinance, by any married man (whether married before or after the proclamation of this Ordinance) on his own life, and expressed upon the face of it to be for the benefit of his wife or of his wife and children or any of them, shall enure and be deemed a trust for the benefit of his wife for her separate use and of his children or any of them, according to the interests so expressed, and shall not, so long as any object of the trust remains, be subject to the control of the husband or his creditors, or form part of his estate. Provided that if it shall be proved that the policy was effected and the premiums paid by the husband with intent to defraud his creditors they shall be entitled to receive out of the sum secured an amount equal to the premiums so paid.

Husband may insure his life for the benefit of his family.

19 All movable property to which any woman, married after the proclamation of this Ordinance, shall be entitled at the time of her marriage or may become entitled during her marriage, shall, subject and without prejudice to any settlement affecting the same, and except so far as is by this Ordinance otherwise provided, vest absolutely in her husband.

All other movable property of the wife to vest in the hnsband.

20, 21 Repealed by No. 2 of 1889.

22 A married woman having separate property adequate for the purpose shall be subject to all such liability for the maintenance of her children as a widow is now by law subject to for the maintenance of her children. Provided that nothing in this Ordinance shall relieve her husband from any liability at present imposed upon him by law to maintain her children.

Wife with separate property liable for the maintenance of her children.

23 Whereas doubts have been entertained whether the sixth section of the Placaat or Edict of the Emperor Charles V., dated the 4th day of October, 1540, relating to marriage settlements, is operative in this island, it is hereby enacted that the said section of the said Placaat has no force or operation in the said island.

Sixth section of Placaat of Charles V. of 1540 declared to have no operation in Ceylon.

III.—*Inheritance.*

24 The following sections of this Ordinance shall apply to the estates of such persons only as shall die after the proclamation of this Ordinance, and shall be then unmarried or (if married) shall have been married after the proclamation of this Ordinance.

Following sections to whom applicable.

25 Inheritance *ab intestato* to the immovable property in Ceylon of a person deceased shall be governed and regulated by the following provisions of this Ordinance wherever such person may have or have had his actual or matrimonial domicile. Inheritance *ab intestato* to the movable property of a person deceased shall be governed and regulated by the law of the country in which he had his domicile at

Inheritance to immovable property in Ceylon to be governed by this Ordinance. Inheritance to movable property

Digitized by Google

to be governed by the law of the domicile.

Proviso.

the time of his death. Provided that when any person shall have his domicile in any part of this island, such domicile shall, so far as relates to the inheritance to his movable property, be deemed to be in the Maritime provinces. Provided also that if a person dies leaving movable property in Ceylon, in the absence of proof of his domicile elsewhere, the inheritance to such property shall be governed by the following provisions of this Ordinance.

Surviving spouse inherits one-half.

26 When any person shall die intestate as to any of his or her property, leaving a spouse surviving, the surviving spouse shall inherit one-half of the property of such person.

Order of devolution of property.

27 Subject to the right of the surviving spouse in the preceding section mentioned, the right of inheritance is divided in the following order as respects (1) descendants, (2) ascendants, (3) collaterals.

Preferential right of children.

28 Children, grandchildren, and remoter descendants are preferent to all others in the estate of the parents; all the children take equally *per capita*, but the children or remoter issue of a deceased child take *per stirpes* or by representation.

When descendants fail.

29 The children and remoter descendants failing, the inheritance of the deceased goes to his father and mother in case they are both alive; but if only one of the parents be alive, the surviving parent takes half, and the brothers and sisters of the deceased of the full blood, and the issue of any deceased brother or sister of the full blood, by representation, and the brothers and sisters of the half blood who are related to the intestate by the side of the deceased parent, and the issue of any such deceased brother or sister of the half blood, by representation, take the other half. In case there is no full or half brother or sister alive at the death of the deceased, the surviving parent inherits the whole, although there may be children or other issue of deceased brothers or sisters.

In case of parents failing.

30 Father and mother both failing, the property of the intestate goes to his brothers and sisters, whether of the whole or half blood, and their children and other issue by representation.

Division in case of half brothers and sisters.

31 The division however in the case of half brothers and sisters is as follows: The inheritance is divided into two parts: the one-half the full brothers and sisters and the issue of such as are deceased by representation divide with the half brothers and sisters of the father's side and the issue of such as are deceased by representation; and the other half they divide with those of the mother's side and the issue of such as are deceased by representation; but if there are only half brothers and sisters or such issue of one side, the full brothers and sisters and the issue of deceased full brothers and sisters by representation take then in the first place one-half of the property, and divide the other half with the half brothers and sisters and their issue by representation.

When full brothers and their children fail.

32 When full brothers and sisters or their children or remoter issue fail, and there are half brothers' and sisters' children or remoter issue on both sides alive, then one-half

Digitized by Google

of the property goes to the half brothers and sisters or their children and remoter issue by representation on the father's side, and the other half to the half brothers and sisters on the mother's side and their children and remoter issue by representation.

33 In case all the half brothers and sisters, their children and remoter issue, are related to the intestate on one side only, they take the whole of the inheritance, unless there be a grandfather or grandmother or higher ascendant yet alive, related to the intestate on the other side, in which case such half brothers and sisters, their children and remoter issue by representation take one-half only, and the next ascendants *per capita* the other half. In case of half brothers only on one side.

34 Except when otherwise expressly provided, if all those who succeed to the inheritance are equally near in degree to the intestate, they take *per capita* and not *per stirpes*. Where all who succeed are nearly equal in degree.

35 All the persons above enumerated failing, the inheritance goes first to the nearest in the ascending line *per capita*, although it should happen that on the one side both the grandfather and the grandmother, and on the other side only one of these parents, should be alive. Afterwards to uncles and aunts and the children of deceased uncles and aunts *per stirpes*. Uncles and aunts failing, then to their children and also great-uncles and aunts with them *per capita*. All persons above enumerated failing.

36 All the persons above enumerated failing, the entire inheritance goes to the surviving spouse, if any, and if none, then to the next heirs of the intestate *per capita*. All persons above enumerated failing, surviving spouse takes.

37 Illegitimate children inherit the property of their intestate mother, but not that of their father or that of the relatives of their mother. Where an illegitimate person leaves no surviving spouse or descendants, his or her property will go to the heirs of the mother, so as to exclude the Crown. Illegitimate children.

38 If any one dies intestate without heirs, his or her estate escheats to the Crown. If, however, any heirs can be found, even beyond the tenth degree, they take the inheritance. On failure of heirs Crown takes.

39 Children or grandchildren by representation becoming with their brothers and sisters heirs to the deceased parents are bound to bring into hotchpot or collation all that they have received from their deceased parents above the others either on the occasion of their marriage or to advance or establish them in life, unless it can be proved that the deceased parent, either expressly or impliedly, released any property so given from collation. Collation by children or grandchildren advanced by intestate.

40 In all questions relating to the distribution of the property of an intestate, if the present Ordinance is silent, the rules of the Roman-Dutch law as it prevailed in North Holland are to govern and be followed. *Casus omissi* to be governed by law of North Holland.

4th January, 1877.

Digitized by Google

No. 2 of 1877.

An Ordinance to amend and consolidate the Law relating to Notaries.

(*As amended by No. 3 of 1890.*)

(*See No. 3 of 1890 and No. 10 of 1890.*)

Preamble.

WHEREAS it is expedient to amend the law relating to notaries and to make further provision for the proper qualification of notaries and for the more efficient and faithful discharge of the duties appertaining to the office of a notary, and to consolidate the law now in force relative thereto: It is enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Repeal of former Ordinances.

1 So much of the Ordinance No. 16 of 1852 as is now in force and the Ordinance No. 16 of 1873 are hereby repealed, save and except so far as relates to any acts which shall have been done, appointments which shall have been made, liabilities which shall have been incurred, and offences which shall have been committed prior to this Ordinance coming into operation. Provided, however, that such repeal shall not affect the right of admission to the office of notary or the qualification for such office of any person who shall before the passing of this Ordinance have been duly articled as a clerk to an advocate or proctor of the Supreme Court under the 2nd section of the said Ordinance No. 16 of 1873. The right of admission and qualification of such persons aforesaid shall continue to be determined and governed by the said Ordinance No. 16 of 1873.

Proviso.

Repeal not to affect persons articled before the passing of this Ordinance.

Mode of application for admission to articles.

2 Every person intending to be an articled clerk with the view of qualifying himself for the office of notary shall give at least three months' notice of such his intention to the government agent of the province in which he resides, and at the expiration of such notice he shall apply to the Governor for permission to enter into articles. Every such application shall be in the form of a petition to the Governor, in the English language, and in the native language, if any, in which the applicant proposes to practise, and in his handwriting, and shall contain the following particulars:

(1) The place in which the applicant resides.
(2) His age.
(3) The name of the advocate or proctor under whom he intends to serve.
(4) The district and the language or languages in which he proposes to practise.

And such petition shall be accompanied with any such certificate of character and qualification as the applicant can produce.

Examination of applicant and license for admission to articles.

3 It shall be lawful for the Governor, at his discretion, on receipt of such petition, to refer the same to some person or board to be named by the Governor to inquire into and report upon the character and general attainments of the

Digitized by Google

applicant, and if such applicant shall be reported by such person or board as being qualified and of good character, it shall be lawfulfor the Governor to allow such applicant to become an articled clerk, and such leave or license shall be certified inwriting under the hand of the Colonial Secretary. And no person shall be an articled clerk unless he shall have obtained the leave or license of the Governor as herein provided. Provided, however, that the number of articled clerks to be licensed for and in each district shall be limited and determined by Proclamation to be issued from time to time by the Governor, acting with the advice of the Executive Council.

Transfer of articles.

4 In the event of the advocate or proctor to whom any persons shall be articled under the provisions of this Ordinance dying or discontinuing to practise in the district in which he practised when such articles were entered into, it shall be lawful for such articled clerk to transfer his articles to some other advocate or proctor, in which case the time during which he shall have served under his original articles shall be reckoned as part of the term of his apprenticeship, notwithstanding such transfer.

Articled clerk forbidden to trade.

5 No articled clerk shall, during his service under articles or during any part thereof, in any way follow or be engaged in any trade or commercial business whatever.

Advocates and proctors of Supreme Court qualified for admission.

6 All advocates and proctors of the Supreme Court shall be qualified for admission as notaries without any further qualifications as hereinafter required in respect of other persons.

Qualification for admission as a notary.

7 No person, other than an advocate or proctor of the Supreme Court, shall be capable of being admitted to practise as a notary unless he possesses the following qualifications:

(1) He shall be of good repute.

(2) He shall be of the full age of twenty-one years.

(3) He shall have been an articled clerk, licensed in the manner provided by the 3rd section, of an advocate or proctor of the Supreme Court, and shall have duly served as such for three years. Provided that if the applicant intends to practise in any of the native languages, he shall serve for two years as a licensed articled clerk of such advocate or proctor and for one subsequent year as a clerk in the office of a notary practising in the language in which the applicant intends to practise. **Proviso.**

(4) He shall be reported duly qualified by the person or board to whom the application shall have been referred by the Governor, as hereinafter provided, both as to the above qualifications and also as to his competency to perform the duties of notary, and as to his knowledge of the language in which he means to practise as such.

Proviso as to districts where there is a

Provided that it shall be lawful for the Governor, with the advice of the Executive Council, to grant a warrant empowering a person of good repute and full age, who shall pass such

Digitized by Google

paucity of notaries.

an examination as the Governor with like advice shall prescribe, to practise as a notary in any district where, from the paucity of duly qualified notaries, it is expedient, with a view to the convenience of the inhabitants thereof, to relax the ordinary rules as to the qualifications of a notary.

Mode of application for admission as a notary.

8 Every person (other than an advocate or proctor of the Supreme Court) who shall intend to apply for admission as a notary, shall three months at least before he shall so apply give notice of such his intention to the district court of the district and the government agent of the province in which he resides and in which he intends to practise, and shall cause notice of his intended application, in the English, Sinhalese, and Tamil languages respectively, to be affixed in some conspicuous part of such court, and to be published three times in the *Government Gazette* and once at least in some local newspaper, between the dates of notice and of application. Every such application shall be in the form of a petition to the Governor, and shall contain the following particulars:

(1) The place in which the applicant resides, and the district in which he intends to practise;

(2) The name of the advocate or proctor and notary (if any) under whom he has served his articles;

(3) The language or languages in which he purposes to draw, authenticate, or attest deeds or other instruments;

(4) The nature of the security he intends to offer and all particulars connected therewith;

(5) Such application shall be accompanied with the certificate of the Colonial Secretary mentioned in the 3rd section, a copy of the local newspaper in which such notice as aforesaid was published, and also a certificate from the advocate or proctor and notary (if any) to whom he has been apprenticed, that he has duly served his articles and that in the opinion of such advocate or proctor and notary (if any) the applicant is a fit and proper person to be appointed a notary.

Reference of application.

9 It shall be lawful for the Governor, on receipt of any such petition, to refer the same to some person or board, to be named by the Governor, to inquire into and report upon the fitness and attainments of the applicant to be appointed a notary, and whether he is duly qualified as required by this Ordinance.

Articled clerk bound to furnish yearly on or before the 30th June particulars as to his articles to Registrar-General.
The registrar shall forward such statement for publication in the *Gazette* on

10 Every articled clerk shall on or before the 30th day of June in each year furnish to the Registrar-General of Lands a statement setting out his name and address, the date of his articles, the advocate or proctor and notary (if any) under whom he serves, and the district and language in which he intends to practise. It shall be the duty of such registrar to forward, on or before the 31st day of July in each year, an abstract of such statements, distinguishing them into provinces and districts, for publication in the *Government Gazette*. Any such articled clerk failing to furnish such statement shall not be allowed, unless he can explain such failure

Digitized by Google

to the satisfaction of the person or board to whom his application to be admitted to practise as notary shall be referred by the Governor, as hereinbefore provided, to count the year or years in which he shall have so failed, but shall be required to serve another year for every fresh year of failure.

or before 31st July in each year. Consequence of not furnishing statements.

11 Every appointment for the office of notary shall be by warrant under the hand and seal of the Governor, and shall specify and define the district within which alone the person thereby appointed is to practise, and the language or languages in which he is authorized to draw, authenticate, or attest deeds or other instruments.

Appointment by warrant.

12 Every notary shall be bound to reside and have his office within the district in which he is allowed to practise, and any notary infringing this rule shall be liable to have his warrant withdrawn by the Governor, acting with the advice of the Executive Council.

Notary shall be bound to reside in district for which he is appointed.

13 It shall not be lawful for any person admitted to act as a notary to commence practising as such until he shall have made and signed before the district judge of the district where such person resides a declaration in the words or to the effect following; that is to say,

Notary to make declaration and give security.

> I, *A. B.*, do sincerely promise and declare that I will truly and faithfully and to the best of my ability execute the office of a notary in pursuance of and in conformity with the authority given to me by warrant of the Governor bearing date ——— day of ——— ;

and until he shall have executed before the said judge a bond to Her Majesty, her heirs and successors, in such amount as the said judge shall consider reasonable, not exceeding the sum of one thousand rupees, conditioned for the due and faithful discharge of his duties as a notary, which amount shall be secured to Her Majesty, her heirs and successors, either by the hypothecation of immovable property or by deposit of movable property, or by the personal undertaking of two or more sufficient sureties in that behalf to the satisfaction of such district judge; and until he shall have filed in the district court of such district an attested copy of his warrant. And if any person shall practise or act as or exercise the office or functions of a notary without having obtained such warrant as aforesaid, or without having made and signed such declaration and given such bond and security as aforesaid, or without having filed an attested copy of his warrant, every such person shall in any such case be guilty of an offence, and liable on conviction thereof to any fine not exceeding one thousand rupees, or to imprisonment, with or without hard labour, at the discretion of the court, for any period not exceeding three years, or to such fine as well as such imprisonment.

Penalty for practising without warrant, &c.

14 Any person who has or shall hereafter become bound as a surety for the due and faithful discharge by any notary of his duties as such, may upon application in the district court of the district in which such notary resides, be discharged from any further liability as such surety, upon proof

Sureties may obtain discharge from future liability.

Digitized by Google

to the satisfaction of such court that he has given six weeks' notice to such notary of his intended application. And thereupon the said court shall make an order discharging such surety from any liability in respect of any act of such notary done or committed after the date of such order; and such order shall be endorsed on the bond, by which such surety had become bound, under the hand of the district judge.

On loss of security or death, insolvency, discharge, or departure from the island of sureties, notary to furnish other securities.

15 If at any time the security given by any notary shall perish or be lost, or if the sureties who became bound for him shall die or depart from this island, or become insolvent or be discharged from their obligation as such sureties, the district judge shall call upon such notary forthwith to furnish other sufficient security; and if any notary, after being so required to furnish security, shall, before having complied with such demand, practise or act as a notary, he shall be liable on conviction thereof to the punishment provided in section 13 of this Ordinance.

Names of notaries to be enrolled in the district court.

16 It shall be the duty of every district judge in his own district, on the production to him by any person of any such warrant as aforesaid, authorizing him to act as a notary in such district, and after the person therein named shall have made and signed the declaration and given the security hereinbefore mentioned, without fee or reward to enrol the name of such person and the date of his admission as a notary licensed to act as such in virtue of the said warrant in a roll or book to be provided and kept for that purpose in the district court. And the said declaration and bond, together with an attested copy of such warrant, shall be filed of record in the said court; and a list of all notaries heretofore authorized to act as such within any such district, or who may at any time hereafter be enrolled in such court as aforesaid, and who may be authorized to act within any such district, shall be kept at all times appended in some conspicuous place on the wall of the court-house for general information. And the secretary of such court shall from time to time, as occasion may require, correct the said list by striking therefrom the names of any notaries who have died or been struck off the roll of notaries, or have removed from the said district or ceased to practise as notaries therein. And the secretary shall forward to the Registrar-General of Lands on the thirtieth day of June and the thirty-first day of December in each year a copy of such list corrected up to date, and shall also forward on such days as aforesaid to each of the several commissioners of courts of requests within the district a corrected list of notaries entitled to practise within the jurisdiction of such courts of requests respectively. Each commissioner shall cause the list so received by him to be affixed on some conspicuous place on the wall of his court.

Notary when disqualified for his office.

17 If any person, who now is or hereafter may be authorized to act as a notary, shall be lawfully convicted of any crime or offence which in the opinion of the Governor, acting with the advice of the Executive Council, renders

Digitized by Google

him unfit to be entrusted with any responsible office in the district, or of any crime or offence punishable under the provisions of the 29th section of this Ordinance, or if any such person, being an advocate or proctor, shall be duly removed from his office as such, every such person shall become disqualified for the said office of notary, and the warrant granted to him shall thereupon be cancelled. Or if any such person, being an advocate or proctor, be suspended from his office as such, he shall during the period of such suspension be disqualified for discharging the duties of a notary.

In cases of gross misconduct or incapacity Governor may remove a notary from his office.

18 It shall be the duty of the Registrar-General, and also of the district court or court of requests of the district in which any notary resides, upon proof to the satisfaction of such registrar or such court of gross misconduct in the discharge of the duties of his office by such notary, or that such notary has proved himself to be incapable of discharging them with advantage to the public, or that he has so conducted himself by repeated breaches of any of the rules set out in the 26th section of this Ordinance, or otherwise, that he ought not to be any longer entrusted with the performance of the said duties, to report the same in writing, with the evidence taken by such registrar or court, to the Governor; and thereupon it shall be lawful for the Governor, with the advice of the Executive Council, to cancel the warrant granted to such notary.

Certificate of cancelling of warrant to be transmitted to the local courts.

19 Whenever any such warrant has been cancelled or notary suspended, notice thereof shall be given in the *Government Gazette*, and a certificate that such warrant has been cancelled or notary suspended shall be transmitted by the Colonial Secretary to the district court and court of requests of the district within which such notary shall have been authorized to act, and to the Registrar-General. And it shall be the duty of the judge of the court, in which the name of such notary is enrolled, to cause his name to be immediately struck off the roll of notaries. And a copy of such certificate, with a translation in the Sinhalese and Tamil languages subjoined thereto, shall be kept appended in some conspicuous place on the wall of every such district court and court of requests for such period as the court may direct.

Notary may be suspended from his office by the Governor in certain cases.

20 It shall be lawful for the Governor, on the application of the Attorney-General, in any case in which any notary shall have been duly committed to take his trial for any crime or offence in the 17th or 29th sections of this Ordinance mentioned, to suspend such person from his office of notary pending his trial for such crime or offence; and in any such case of the suspension of any notary a certificate thereof shall be forthwith transmitted by the Colonial Secretary to the district court and court of requests of the district within which such notary shall have been authorized to act, and to the Registrar-General, and a copy of such certificate, with a translation in the Sinhalese and Tamil languages subjoined thereto, shall, so long as such suspension

Digitized by Google

shall be in force, be kept appended in some conspicuous place on the wall of such district court and court of requests. Provided that if such notary shall not be brought to trial within six months after such suspension, the same shall cease to be any longer in force and shall be deemed to be removed.

Penalty on notary practising after notice of suspension, &c.

21 If any person shall act as or exercise the office or functions of a notary after having received notice of any such suspension as aforesaid, and before the same shall have been removed, or after he shall have been convicted of any crime or offence disqualifying him for the said office, or after he shall have been removed from the office of advocate or proctor, as hereinbefore mentioned, or after he shall have received notice that the warrant granted to him has been cancelled as aforesaid, he shall be guilty of an offence, and be liable on conviction thereof to any fine not exceeding one thousand rupees, or to imprisonment, with or without hard labour, at the discretion of the court, for any period not exceeding three years, or to such fine as well as such imprisonment.

Certificates to be granted yearly to notaries.

22 It shall be the duty of every secretary of a district court in his district to grant or issue to every person entitled to practise as a notary in such district, who shall apply for the same, a certificate that such person is a notary and duly authorized to practise as such in such district. And all such certificates shall be applied for and granted on or before the first day of March in every year, and shall be in force for one year and no longer. Provided, however, that if such certificate shall not be applied for within the time limited, and it shall be shown to the satisfaction of the district judge that such default was not due to any negligence on the part of the notary, the district judge shall direct the secretary to issue the required certificate notwithstanding such delay as aforesaid. And such certificate shall be in the form in the schedule to this Ordinance annexed marked A, and shall bear a stamp duty of *ten* rupees. Provided that it shall be lawful for the Governor, with the advice of the Executive Council, to authorize the issue of any such certificate on unstamped paper in any case in which the circumstances of any district or place appear to him to render such a proceeding necessary or advisable.

[*No. 3 of 1890, schedule*]

Notaries applying for certificates to make declaration.

23 For the purpose of obtaining such certificate as aforesaid, a declaration in writing, signed by such notary, containing his name and place of residence and the district in which he is authorized to practise, shall be delivered to the said secretary, who shall, as soon as conveniently may be after the delivery of such declaration (unless he shall see cause and have reason to believe that the party applying for such certificate is not upon the roll of notaries or not authorized to practise as such in such district), deliver to the said notary such certificate as aforesaid. And if any person shall make any false statement in any such declaration, he shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding five hundred rupees.

Digitized by Google

Notaries.

24 If any person shall act as a notary without having obtained such certificate as aforesaid, he shall for or in respect of every deed or instrument executed or acknowledged before him as such notary, whilst he shall have been without such certificate, incur and be liable to a fine not exceeding fifty rupees.

Penalty on notaries practising without certificate.

25 In case the said secretary shall decline to issue any such certificate to any notary as aforesaid, the party so applying for the same may apply to the district court, which is hereby authorized to make such order in the matter as shall be just. Provided always that any party aggrieved by any such order may appeal against the same to the Supreme Court. Such appeal shall be regarded as an appeal from an interlocutory order of a district court.

On refusal to grant any certificate application to be made to the district court.

26 It is and shall be the duty of every notary strictly to observe and act in conformity with the following rules and regulations; that is to say,

Rules to be observed by notaries.

(1) He shall not divulge the secrets confided to him or of which he becomes possessed in the execution of his office, unless with the express permission of his employer, or when required to do so by law;

(2) He shall not authenticate or attest any deed or instrument whatever unless the person executing the same be known to him or to at least two of the attesting witnesses to the said deed or instrument;

(3) He shall not authenticate or attest any deed or instrument whatever in any case in which both the person executing the same and the attesting witnesses thereto are unknown to him;

(4) He shall not authenticate or attest any deed or instrument whatever to which two witnesses at least have not subscribed their signatures in letters;

(5) He shall not authenticate or attest any deed or instrument whatever unless the person executing the same and the witnesses shall have signed the same in his presence and in the presence of one another;

(6) He shall correctly insert in every deed or instrument whatever executed before him the day, month, and year on which and the place where the same is executed, and the names and residences of the attesting witnesses, on the day on which it is so executed;

(7) When any deed or instrument whatever shall be acknowledged before him, he shall correctly insert in the attestation thereto the day, month, and year on which and the place where the same is acknowledged, and the names and residences of the attesting witnesses, on the day on which it is so acknowledged;

(8) He shall not attest any deed or instrument whatever in any case in which the person executing or acknowledging the same shall be or profess to be

Digitized by Google

unable to read the same, or in which such person shall require him to read over the same, unless and until he shall have read over and explained the same or caused the same to be explained in the presence and hearing of such person and of the attesting witnesses thereto;

(9) He shall not require, permit, or suffer any party to any deed or instrument executed or to be executed before him, or any witness thereto, to sign his name or make his mark to or acknowledge any such deed or instrument or any duplicate or other part thereof or any draft or minute thereof intended to be preserved in his protocol, or to sign his name or make his mark upon any paper or other material intended to be afterward used for any such purpose, until the whole of such deed or instrument shall have been written or engrossed thereon;

(10) He shall duly attest every deed or instrument whatever which shall be executed or acknowledged before him, and in such attestation shall state that the said deed or instrument was signed by the party and the witnesses thereto in his presence and in the presence of one another, and shall also in such attestation state whether the person executing or acknowledging the said deed or instrument, or the attesting witnesses thereto (and in the latter case he shall specify which of the said witnesses) were known to him, and whether the same was read over by the person executing the same, or by him, the said notary, to the said person; and he shall sign and seal every such attestation. He shall state in his attestation the amount of the stamp affixed to the duplicate of such deed or instrument, and shall cancel the stamp thereon as directed by law. And such attestation shall be in the following form of words, or in any other form of words to the same effect, as the case shall happen; that is to say,

I, *A. B.*, Notary Public, do hereby certify and attest that the foregoing instrument having been read over (*and explained*) by me, the said notary, to the said *D. E.* (*here insert the name of the person or persons executing such instrument*), who is (*or* are) known to me (*if the case be so*), in the presence of (*insert the names of the witnesses in full, with their residences*), the subscribing witnesses hereto, both of whom are known to me (*if the case be so*), the same was signed (*or* acknowledged) by the said *D. E.*, and also by the said witnesses, in my presence and in the presence of one another, all being present at the same time, on the ——— day of ———, at ———.

I further certify and attest that Rs. ———, the consideration (*or* part consideration, *as the case may be*), was paid in my presence, and that the duplicate of this deed bears a stamp of Rs. ———.

Date of attestation :——— (Seal) ———
Notary Public.

Digitized by Google

Such attestation shall be legibly signed by him in the language in which the deed or instrument is written, and also with his usual signature, if the language or form of that signature be different from that in which such deed or instrument is written;

(11) He shall on or before the fifteenth day of every month deliver or transmit to the registrar of lands of the district in which he resides the duplicate of every deed or other instrument (except wills and codicils) executed or acknowledged before or attested by him during the preceding month, together with a list in duplicate signed by him, of all such deeds or instruments, and shall at the same time forward a copy of such list so signed by him to the Registrar-General of Lands. Provided that where any deed shall be executed or acknowledged by two or more parties residing in different districts and before different notaries, the duplicate of such deed shall be delivered or transmitted by the notary by whom the same was drawn up to the registrar of lands of the district in which he resides; and it shall not be necessary for the other notary or notaries employed in the execution of such deed to deliver or transmit any duplicate thereof to such registrar. And if the land referred to in any deed or instrument, which by the Ordinance No. 7 of 1840, intituled "To provide more effectually for the prevention of Frauds and Perjuries," is required to be executed before a licensed notary, be situated in any district other than that in which the notary before whom the same is signed, and by whom the same is attested, shall reside, such notary shall on or before the fifteenth day of the month next following that in which the same was executed (besides transmitting the duplicate in manner aforesaid) deliver or transmit to the registrar of the district in which such land shall be situated an attested copy thereof, together with a list in duplicate signed by him of all such deeds or instruments as relate to lands in such last-mentioned district;

(12) He shall carefully preserve in his protocol a draft, minute, or copy of every deed or instrument executed or acknowledged before him, to which shall be attached his signature and those of the party and witnesses to the original deed or instrument, and he shall keep a register thereof with a convenient index for the purpose of easy reference;

(13) He shall not attest any deed or instrument which is insufficiently stamped;

(14) Before attesting any deed affecting any interest in lands, he shall endeavour to ascertain whether any prior deed affecting any interest in such land has been registered. And if any such prior deed has been to his knowledge registered, he shall insert at

Digitized by Google

the head of the deed attested by him the number of the registration volume and the page of the folio in which the registration of such prior deed has been entered;

(15) He shall number consecutively all the documents attested by him, except last wills, according to the order in which they are executed before him. If he shall change his district, as provided by the 33rd section of this Ordinance, he shall number consecutively the deeds attested by him in the new district, commencing with number "1";

(16) He shall not attest any deed, will, or other instrument which is written on more than one entire or undivided sheet or piece of paper, parchment, or other material, unless each of the sheets or pieces used has been previously produced before the registrar of lands for the district in which the notary resides, and has been marked or signed or initialled by such registrar in such manner as such registrar shall determine, in order to prevent the sheets being used for any other purpose than the deed, will, or instrument intended to be executed, or unless the parties executing the same and the notary shall sign every sheet or piece in which any part of the instrument is written;

(17) He shall not attest any deed or instrument written on paper which is not of a reasonably durable description and suitable for the purpose of documents of this kind, nor shall he attest any deed or instrument written on ola;

(18) Whenever any money shall be paid in his presence as the consideration or part of the consideration for any instrument, he shall make a note of such payment in his attestation;

(19) If he attest any deed executed before him by means of an attorney, he shall preserve a true copy of the power of attorney with his protocol, and shall forward a like copy thereof with the duplicate deed to the registrar of lands;

(20) He shall not attest any instrument in any district other than that in which he is authorized to act, nor in any language other than that in which he is authorized to practise;

(21) He shall give one month's notice to the district judge of the district in which he is authorized to act, and also to the Registrar-General, of his intention to change his residence or to discontinue his practice, and shall affix a written notice to that effect, signed by him, on the outside door or wall of the district court of every such district;

(22) He shall give notice to the district judge with as little delay as possible of the death, departure from the island, or insolvency of any person bound as a surety for the due and faithful discharge by such notary of his office;

Digitized by Google

Notaries.

(23) Whenever he shall change his residence, he shall without delay give notice of such change to the registrar of lands of the district and the government agent of the province in which his new residence is situated.

And if any notary shall act in violation of or shall disregard or neglect to observe any of the foregoing rules and regulations, he shall be guilty of an offence, and shall be liable on conviction thereof to a fine not exceeding two hundred rupees, in addition to any civil liability he may incur thereby. Provided that no instrument shall be deemed to be invalid in consequence of the non-observance by the notary of the foregoing rules and regulations or of any of them, in any matter of form. But nothing in this proviso contained shall give any validity to any instrument which may be invalid by reason of the provisions of any other law not having been complied with.

Penalty for non-observance of rules.

Proviso.

27 Whenever a notary has received instructions and a sufficient sum to meet the necessary expenses for registering any deed or instrument drawn or attested by him, and shall in such case fail to use due diligence in effecting such registration, he shall be guilty of an offence, and liable on conviction to a fine not exceeding one thousand rupees, in addition to any civil liability which he may incur by reason of his default.

Notary to use diligence in registering deeds.

28 It shall be the duty of every notary to endeavour to ascertain the true and full consideration for the execution of any deed or instrument, and to insert and set forth the same in such deed or instrument. And any notary who shall knowingly and wilfully insert or set forth, or cause to be inserted or set forth, in or upon any such deed or instrument any other than the full and true consideration or money directly or indirectly paid or secured, or agreed to be paid or secured for the same, or the actual value of the same, or shall in any wise aid or assist in the doing thereof, respectively, shall be guilty of an offence, and liable to a fine not exceeding one thousand rupees for every such offence, in addition to any civil liability which he may incur thereby.

Notary to try and ascertain true consideration.

29 If any notary shall attest any fraudulent deed or instrument whatsoever knowing the same to be fraudulent, or shall knowingly and wilfully insert in any deed or instrument whatsoever any word, letter, figure, matter, or thing which ought not to have been inserted therein, or shall knowingly and wilfully omit to insert therein any word, letter, figure, matter, or thing which ought to have been inserted therein, with intent to prejudice or defraud any person; or shall attest any deed or instrument whatsoever without the person who executed or acknowledged it and the attesting witnesses thereto having appeared personally before him at the time when it was so executed or acknowledged; or shall knowingly and wilfully make any false statement in the attestation to any deed or instrument

Penalty on notary acting fraudulently.

Digitized by Google

executed or acknowledged before him; or shall wilfully, maliciously, or fraudulently mis-state or misrepresent to any party thereto the contents or effect of any deed or instrument whatsoever executed or acknowledged before him; or shall by any other wilful act, either of commission or omission, commit or attempt to commit any fraud in the execution of his office; or shall wilfully, maliciously, or fraudulently deface, mutilate, injure, destroy, or make away with any deed or instrument whatever, or any draft, minute, or copy of any deed or instrument which had been left in his charge or custody, or which he was bound to preserve; every such notary shall in any of such cases be guilty of an offence, and shall be liable on conviction thereof to imprisonment, with or without hard labour, at the discretion of the court, for any period not exceeding five years.

Fees to be taken by notaries.

30 The several fees specified in the table to this Ordinance annexed marked B shall and may be lawfully demanded and taken by notaries for the performance of the duties of their office as therein expressed. And a correct table in the English, Sinhalese, and Tamil languages of the fees chargeable by notaries shall be at all times appended in some conspicuous place on the wall of every district court and court of requests throughout the island. And if any notary shall without just and reasonable cause refuse or neglect at any proper time, and on being tendered his proper fees, to discharge any of the duties or functions of his office, or shall demand or insist upon receiving a higher fee than he is authorized to demand, he shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding two hundred rupees.

On removal or death of notary documents to be delivered to registrar.

31 If any person being removed from or ceasing to act in the office of notary, or, in case of the death of any such notary, if any of his heirs, executors, or administrators, or any other persons, into whose possession the same shall have come, shall wilfully lose or injure or destroy, or shall without just and lawful cause wilfully neglect or refuse to deliver over, as soon as conveniently may be, to the registrar of lands for the district in which such notary was resident, any drafts, minutes, or copies of any deeds or other instruments executed or acknowledged before such notary, or any register, index, deed, instrument, or document whatever, possessed by such notary in right of his said office; every such person shall be guilty of an offence, and shall on conviction thereof be liable to imprisonment, with or without hard labour, for any period not exceeding twelve calendar months, or to a fine not exceeding two hundred rupees, or to both.

Notary to deliver to the registrar lists of duplicate deeds filed.

32 Whenever the duplicate of any instrument shall be transmitted to the registrar by any notary under the 26th section of this Ordinance, sub-section 11, or whenever any document shall be delivered up to any registrar under the preceding section, such notary or other person transmitting or delivering the same shall tender to the registrar two lists thereof, and the said registrar shall, after ascertaining the

Digitized by Google

correctness thereof, sign the said lists, and return one of them to the said notary or other party, and file the remaining list and securely keep and preserve the same and the documents specified therein with the other records of his office.

33 It shall be lawful for the Governor, upon the application of any notary, by a new warrant, to authorize any notary to change his district and to act as a notary in a district other than that specified in his original warrant, whenever such shall seem expedient to the Governor.

Governor may authorize notary to change his district.

34 This Ordinance shall come into operation on the thirty-first day of March, in the year of our Lord One thousand Eight hundred and Seventy-seven.

Ordinance when to take effect.

SCHEDULE A.

I, *A. B.*, Secretary of the District Court of ———, do hereby certify that *C. D.*, of ———, hath this day delivered and left with me the declaration in writing signed by him required by the Ordinance No. 2 of the year 1877, and I further certify that the said *C. D.* is duly enrolled as a notary and authorized to practise as such in the district of ———.

In witness whereof I have this ———day of ———, at ———, set my hand on this stamped certificate.

(Signed) *A. B.*, Secretary.

SCHEDULE B.

Table of Notaries' Fees.

For drawing, engrossing, and attesting any deed of transfer of property, movable or immovable, and any mortgage or bond in common form, wherein the value or consideration is expressed, or any lease in common form without special covenants, wherein the rent value or consideration is expressed: where such value or consideration (or in the case of a lease the rent comprised during the whole term) does not exceed Rs. 25 ... ... 0 50

				Rs.	c.
Exceeds Rs.	25	and does not exceed Rs.	50	0	75
Do.	50	do.	75	1	0
Do.	75	do.	100	1	25
Do.	100	do.	200	1	50
Do.	200	do.	350	2	0
Do.	350	do.	500	2	50
Do.	500	do.	750	3	0
Do.	750	do.	1,000	3	50
Do.	1,000	do.	1,500	4	50
Do.	1,500	do.	2,000	5	50
Do.	2,000	do.	3,000	6	50
Do.	3,000	do.	4,000	8	0
Do.	4,000	do.	5,000	9	0
Do.	5,000	do.	10,000	10	0
Do.	10,000	...	...	20	0

Digitized by Google

Notaries.

	Rs.	c.
Provided that where the term of lease exceeds five years the fees payable on a lease in common form shall not exceed such as would be payable on a lease for five years.		
For drawing, engrossing, and attesting any deed of transfer, mortgage, or lease, or any bond, which is not in common form but contains various covenants, recitals, or conditions, or which includes the description of several parcels of lands, whether the consideration is therein expressed or not, and all agreements, deeds, powers of attorney, or other instruments, including last wills, and other testamentary dispositions: for every such document, per folio of 120 words ...	2	50
For attesting, in duplicate, any deed or instrument, not drawn by the notary himself	1	50
For examining, at the request of any party, the title of any property to be transferred, demised, or mortgaged, if there is only one deed	1	0
If there are more deeds than one, then for each additional deed	0	50
For preparing abstract of title at the request of any party, for each deed abstracted	1	0
For registering at the request of any party any deed in the office of the registrar of lands, half of the charges allowed for drawing, engrossing, and attesting such deed; provided that the maximum charge shall not exceed	5	0
For noting each bill of exchange or promissory note, including the copying of it in the book of registry or protest book and presentment	1	25
Protesting ditto	3	75
For every duplicate protest	2	50
For every act of honour on acceptance or payment supra protest	1	50
For every duplicate of such protest	0	75
For copy of a bill paid in part, and of receipt ...	1	50
For noting protest of ship or vessel, including the copying of it in the book of registry or protest book	5	0
For drawing, engrossing, attesting, and recording protest of ship or vessel, for every folio of 120 words or less ...	2	50
For every notarial copy or extract of deeds where parties require same (excepting the attestation), for every folio of 120 words	0	50
Fee for attesting same	2	50
For every duplicate deed engrossed, attested, and transmitted to the registrar of lands, half of the charges allowed for drawing, engrossing, and attesting such deed.		
For preparing certificate of the Colonial Secretary or other officer to any document intended to be sent abroad ...	2	50
For attendance, either at the notary's office or elsewhere, in case of unusual difficulty or importance, for the purpose of reading and settling instruments before execution ...	1	75
For attendance at the registrar's office for the purpose of ascertaining the existence of incumbrances, or writing a letter for that purpose	1	0
For attendance on counsel for advice, if required ...	1	75
For attendance at any place other than the notary's house or office a charge of Re. 1 per mile, or for any distance under a mile, shall be allowed as travelling expenses.		

10th January, 1877.

Digitized by Google

No. 10 of 1890.

An Ordinance to amend the Law relating to Notaries.

WHEREAS it is expedient to amend the Ordinance No. 2 of 1877, intituled "An Ordinance to amend and consolidate the Law relating to Notaries," and hereinafter referred to as "the principal Ordinance:" Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1 (1) In any case in which a notary's warrant shall have been withdrawn or cancelled under the provisions of the principal Ordinance, it shall be lawful for the Governor, with the advice of the Executive Council, if to him it shall appear expedient so to do, to make an order revoking such withdrawal or cancellation, and to issue a fresh warrant in place of the one withdrawn or cancelled. Governor, with the advice of the Executive Council, may revoke the withdrawal or cancellation of a notary's warrant and issue a fresh warrant.

(2) Notice of such order shall be given in the *Government Gazette*, and a copy thereof shall be transmitted by the Colonial Secretary to the district court and courts of requests of the district within which such notary shall have been authorized to act, and to the Registrar-General. Notice of revocation.

(3) It shall be the duty of the judge of the court in which the name of a notary shall have been enrolled at the time of the withdrawal or cancellation of his warrant forthwith, upon the receipt of such notice as aforesaid, and on the production of a fresh warrant, to restore the name of such notary to the roll of notaries. Notary to be re-enrolled.

2 Every such notary shall, from and after the date on which his name is restored to the roll of notaries as hereinbefore provided, be entitled to execute the office of a notary in conformity with the authority given to him by the fresh warrant of the Governor. Notary to act on fresh warrant from and after re-enrolment.

3 The judge restoring the name of any notary to the roll of notaries kept in his court shall require fresh security to be provided by such notary under section 13 of the principal Ordinance. Fresh security shall be taken.

4 This Ordinance shall be read as one with the principal Ordinance. To be read with Ordinance No. 2 of 1877.

10th November, 1890.

No. 5 of 1877.

An Ordinance to amend the Law relating to the Registration of Titles to Land in this Colony.

(*As amended by No. 4 of 1889.*)
(*See No. 14 of 1891.*)

WHEREAS it is expedient to amend in certain respects the law relating to the registration of titles to land in this colony: It is therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows: Preamble.

I.—*Preliminary.*

1 This Ordinance may be cited for all purposes as "The Land Registration Ordinance, 1877." Short title.

2 The 8th, 13th, 14th, 15th, 16th, 17th, 18th, 19th, 20th, 21st, 22nd, 23rd, 25th, 26th, 27th, 28th, 29th, 30th, and 31st sections of "The Land Registration Ordinance, 1863," and the 3rd, 4th, 5th, 6th, 7th, 8th, 9th, and 10th sections of the Repeal of certain sections of Ordinances No. 8 of 1863 and No. 3 of 1865.

Digitized by Google

Ordinance No. 3 of 1865,* intituled "An Ordinance to amend the Ordinance No. 8 of 1863,"* are hereby repealed, save and except so far as the said sections or any of them of the said Ordinance No. 3 of 1865* repeal any part of the said Ordinance No. 8 of 1863.*

Interpretation clause.

3 The word "person" shall include any company or association of persons whether incorporated or not.

The word "registrar" shall mean the Registrar-General of Lands.

Powers of registrar may be exercised by special commissioner.

4 All the powers, duties, and functions vested in the registrar under this Ordinance may be exercised by any special commissioner appointed by the Governor in that behalf.

II.—*Investigation and Settlement of Claims.*

After Proclamation in the *Gazette* registrar authorized to commence investigations.

5 It shall be lawful for the Governor, with the advice of the Executive Council, on receiving the report of the Surveyor-General mentioned in the 12th section of the said Ordinance No. 8 of 1863,* by a Proclamation to be published in the *Government Gazette*, to declare the division mentioned in such report to have come within the operation of this Ordinance; and the registrar shall thereupon have authority to enter upon all lands situate within such division, and to investigate all claims thereto, for the purposes of registration under this Ordinance.

Notice to claimants.

6 The registrar shall previous to such investigation prepare notices, as near as material in the form A in the schedule hereunto annexed, calling upon all persons having or claiming a right, title, or interest in or to any of the lands situate in the said division, or in such portion thereof as shall be specified in the said notice, or their agents or representatives, to appear before him on a day or days to be named in such notice (not being less than ninety days from the date thereof) and to state their claims thereto. And every such notice shall be published in the English, Sinhalese, and Tamil languages twice at least in the *Government Gazette*, and in two at least of the local newspapers, and copies thereof shall also be affixed on the walls of the kachcheri and the several courts of the district wherein such division is situated, and in such other localities as may secure the greatest possible publicity thereto; and the said notice shall likewise be advertised by beat of tom-tom once a week at least during the said period of ninety days throughout the aforesaid division. And every suit, action, or civil proceeding pending at the time of the Proclamation aforesaid in any district court or court of requests or village tribunal, upon which no final judgment shall have been given by such court or tribunal, in which the title to or right to the possession or enjoyment of any land or interest therein, situate in such division, which might form the subject of registration under this Ordinance, shall be in dispute, shall abate and be transferred to the registrar to be heard, determined, or disposed of by him in the manner hereinafter provided for in the case

Mode of publication.

* Repealed by No. 14 of 1891.

Digitized by Google

of disputed claims. The registrar shall have power to make such order with regard to the payment of the costs of and any damages or other moneys claimed in any suit or action or proceeding so transferred as aforesaid, as the justice of the case may require; and such costs, damages, or moneys shall be recovered by writ of execution against property and person, which the registrar is hereby authorized to issue to the fiscal, who shall duly carry out the same in the same manner as such writs when issued by district courts are carried out. Also every suit of proceeding, which may be pending at the time of the Proclamation aforesaid in any district court *or court of requests* for the partition or sale of any land situate in such division under the provisions of the Ordinance No. 10 of 1863, intituled "An Ordinance to provide for the partition or sale of Lands held in common," or any other Ordinance to be hereafter in that behalf enacted, shall abate and be transferred to the registrar, who shall be empowered to hear, determine, and dispose thereof in the same manner as the said district court could have done if such suit or proceeding had not been so transferred. Provided, however, that no pending suit for the foreclosure or realization of any mortgage shall abate and be transferred to the registrar under this section.

Transfer of pending actions to the registrar.

Partition suits to be referred to registrar.

[§ *30, 4 of 1889*]

Registrar shall proceed to the spot and receive claims.

7 On the day appointed in such notice the registrar shall proceed to the said division, and shall then, or on such other early day as he shall then and there from time to time publicly appoint, inquire for, receive, and record on the spot all claims made by all persons to or in respect of any and every of the lands situate therein.

Mode of making claims and procedure thereupon.

8 Every person having or claiming to have any right, title, or interest, in or to any such lands, whether in possession, reversion, remainder, or expectancy, except as monthly tenant, and whether by way of mortgage, hypothec, lien, charge, or otherwise, other than such hypothec, lien, or charge as may arise or be created or have arisen or have been created under or by virtue of any Ordinance already or hereafter to be enacted, and other than by way of prædial servitude, shall personally or by his agent deliver to the registrar, within such time as he shall then appoint, a statement of his claim in writing, signed by such claimant or his agent, and worded as near as may be according to the form B in the schedule hereunto annexed. Provided that it shall be competent for any such claimant or agent as aforesaid, instead of delivering such statement in writing, to appear in person before the registrar, within such time as last aforesaid, and to state verbally the particulars of his claim; and the registrar shall record the same in writing in such form as aforesaid, and the same shall be signed by the claimant or his agent. And all such statements shall be filed and numbered by the registrar in the order in which they shall have been received or recorded as aforesaid.

Registrar must first appoint time and place

9 After the statements of claims are filed and numbered in manner provided by the preceding section, the registrar shall appoint a time, as early as conveniently may be, and a

Digitized by Google

for investigating undisputed claims.

place for investigating each claim to which no opposition is made or adverse right asserted, giving notice thereof to the claimant or his agent. The registrar may, if he think fit, from time to time appoint any other place or any other time for the investigation, or may adjourn the investigation from place to place and from time to time.

Investigation of undisputed claims.

10 The claimant or his agent shall appear before the registrar at any place and time appointed by him for the investigation of such claims as are mentioned in the preceding section; and the registrar shall then investigate and consider the evidence, whether documentary, oral, or otherwise, adduced by each claimant or his agent in support of the claim to the land or interest therein set out in the claim; and if such evidence of right or title in the claimant to the said land or interest claimed by him is adduced, as according to the laws or customs of this island would in the judgment of the registrar be accepted by a willing purchaser as sufficient evidence of title, the registrar shall record on the statement of claim that the claimant has made out a title of the first class to the land or interest claimed, subject or not (as the case may be) to any other right or interest admitted by such claimant; and if the evidence adduced by the claimant falls short of such evidence as aforesaid, and the registrar is satisfied that the claimant is in the actual and *bonâ fide* possession or enjoyment of the land or interest therein claimed by him, or that his claim thereto is otherwise reasonable and *bonâ fide*, the registrar shall record on the said statement of claim that the claimant has made out a title of the second class to the land or interest therein claimed by him, subject or not (as the case may be) to any other right or interest admitted by such claimant.

Investigation of disputed claims.

Reference to arbitration.

11 After the completion by the registrar of the investigation of undisputed claims, he shall proceed to consider the statements of claims in which two or more persons shall have claimed a right, title, or interest in or to the same land adversely to each other. In such cases the registrar shall propose to them the settlement of their disputes by means of a reference to arbitration. And in case they consent thereto they shall name an arbitrator, and if they do not mutually agree to the nomination of an arbitrator each party so claiming adversely to the other or others shall name an arbitrator, with power to the arbitrators, before proceeding with their investigation, to name the registrar himself or any other person as an umpire. And the parties shall thereupon sign a submission in the form C in the schedule hereunto annexed. And the award of such arbitrator or arbitrators or of their said umpire shall, if made and published within fourteen days from the date of the submission, or within such other period as the registrar shall at the time of such submission or thereafter upon cause shown at any time or from time to time by writing appoint, be binding upon the said parties and conclusive as regards the said disputes. And no such award shall be re-opened or set aside, except upon proof to the registrar of fraud, misconduct,

Digitized by Google

or corruption; in which case it shall be competent for the registrar to set aside the award, and for the parties to enter into a new submission, subject to the same conditions as hereinbefore provided in respect of the original submission.

12 As soon as the arbitrator, arbitrators, or umpire shall have made his or their award, it shall be his or their duty to return the same without delay, together with all the proceedings or depositions recorded by him or them, to the registrar, who shall in accordance with the terms of the award record on the respective statements of claims of the claimants, whose claims have in any respect been upheld, the nature and interest of the title to the land or interest claimed, and whether the title thereto is a title of the first class or of the second class. Provided that it shall be lawful for the registrar from time to time to remit the award back to the arbitrators or umpire for amendment in cases where the award has left any material issue undetermined, or is in any respect defective, obscure, or uncertain. The registrar shall also determine the amount of the fees to be paid to such arbitrators and umpire, and by whom the same shall be payable. Such fees shall be recoverable by writ of execution against property and person, which the registrar is hereby authorized to issue to the fiscal, who shall duly carry out the same in the same manner as such writs when issued by district courts are carried out. Provided always that the registrar shall not be entitled to any fee for acting as such umpire.

Arbitrators to return award to registrar.

Power of registrar to remit award.

Fee to arbitrators.

13 In case the persons so claiming as last aforesaid shall not consent to an arbitration, or in case no award shall be made and published within the time limited in that behalf, the registrar shall fix a day for the investigation and hearing of the disputed claims, notice whereof shall be given to the claimants respectively or posted on a conspicuous place in the land in dispute.

Failing arbitration, registrar to investigate and determine.

14 At any such investigation, as in the preceding section mentioned, the claimants may appear either personally or by counsel. At the close of the investigation the registrar shall determine and decide upon the respective claims of the parties, and whether the title made out is one of the first class or of the second class, according to the principles set out in the 10th section, and shall make his record on the statement of claims accordingly. The registrar shall also tax the costs of the investigation, and determine by whom the same shall be payable; and such costs shall be recoverable by writ of execution against property and person, which the registrar is hereby authorized to issue to the fiscal, who shall duly carry out the same in the same manner as such writs when issued by district courts are carried out.

Procedure at investigation.

15 It shall be the duty of the registrar at such investigations as aforesaid to determine and record with as much exactness as practicable the boundaries of every land in

Registrar to determine boundaries.

Digitized by Google

respect of which any claim shall be upheld. And if any land shall be held in undivided shares by two or more persons, and the parties whose claims have been upheld shall consent thereto, it shall be lawful for the registrar to make partition of such land between or amongst the parties entitled thereto. And it shall be lawful for him to cause boundaries to be constructed or marked on any such land brought within the operation of this Ordinance, at the expense of the parties interested therein. Any person wilfully destroying, removing, injuring, or defacing any boundary so constructed or marked shall be guilty of an offence, and liable on conviction to any such punishment as a police court has power to inflict.

Registrar's decision final.

16 The determination and decision of the registrar upon such claim shall, subject to the appeal hereinafter allowed, be final and conclusive upon the claimants and upon those claiming under any of them by any title acquired subsequent to the claim being made.

The registrar and arbitrators may summon and examine witnesses, and call for documents.

17 The registrar or any other arbitrator or umpire appointed under the provisions of this Ordinance may from time to time, as he shall see occasion, by a writing under his hand (in the form D in the schedule hereunto annexed) summon any person to appear before him at any time or place in such writing mentioned to testify touching the subject of the investigation before such registrar, arbitrator, arbitrators, or umpire, and, if need be, to produce any documents in the possession or control of such person, and may cause the said writing to be served on such person or left at his usual or (failing such being known) his last known place of abode. And every person so summoned, who shall without reasonable or sufficient cause fail to appear, or shall without like cause refuse to be examined on oath or affirmation, or to answer any question which shall be put to him relating to the matter under investigation (which oath or affirmation the registrar, arbitrator, arbitrators, or umpire is and are hereby authorized to administer), or shall (without like cause) refuse or wilfully neglect to produce any such documents as aforesaid, shall for every such refusal or neglect be liable to such fine (not exceeding fifty rupees) as the registrar, arbitrator, arbitrators, or umpire shall think fit by an order under his or their hand or hands to impose.

And inflict penalty for disobedience.

Mode of recovering such penalty.

And it shall be lawful for the registrar, arbitrator, arbitrators, or umpire, in every such order, to direct payment of any such fine to be made into the police court of the district in which the said division is situate; and it shall be lawful for the registrar, in the event of any such fine being imposed, to require the offender to enter into such recognizance, with or without sureties, as the registrar shall determine, to appear before such police court, and in default of entering into such recognizance to direct the fiscal to arrest and keep such offender in custody until he can be conveniently brought before such police court; and if payment is not made as therein directed, the said police court shall proceed to enforce the same, as well as payment of all charges relating to the

Digitized by Google

recovery thereof, and to deal with the persons liable in that behalf in such and the same manner as if the fine had been imposed by the said court. Provided always that all evidence taken or tendered before the registrar or any such arbitrator or umpire shall be subject to the same rules of evidence as are applicable to evidence taken in civil proceedings before ordinary courts of justice.

Mode of taking evidence.

18 All evidence and examination of parties taken before the registrar or any arbitrator or umpire shall be taken down by him in writing, and shall, when complete, be read over and explained to the witness giving the same; and the depositions shall thereupon be signed by him, or in the case of his refusal by the registrar, arbitrator, or umpire. And if any such witness shall in his examination knowingly and wilfully state any matter or thing which shall be false, he shall be liable to the pains and penalties attached to the offence of perjury.

Punishment in case of false evidence.

Record to be made up.

19 The record of all evidence, whether oral or documentary, taken by the registrar at the investigation of each claim (whether disputed or undisputed), shall be made up in a separate file, and the finding or decision thereon, and his reasons therefor and all orders of the registrar in relation thereto, shall be duly entered on the said record. And the record so made up shall be open at all reasonable times, upon application in writing being first made to the registrar, to the inspection of any party interested in such claim or his duly authorized counsel or agent, who shall be entitled to copies of such record or any part thereof, to be made at the expense of the party applying for the same.

20 Repealed by No. 4 of 1889.

Appeal to the Supreme Court from finding of the registrar.

21 If any claimant or his agent be dissatisfied with any finding, decision, or order of the registrar, whether given or made in respect of a disputed or an undisputed claim, he may within ten days after the pronouncing thereof appeal to the Supreme Court; and the registrar shall without delay forward to the said court the record so made up as aforesaid, and the said court shall make such order, in conformity with the provisions of this Ordinance, as the justice of the case may require, and such order, as shall be made by the Supreme Court under this section, the registrar shall duly carry into effect. Provided, however, that no appeal shall lie against any order or decision made in pursuance of any award returned under the provisions of the 11th section, and no appeal shall be entertained unless the appellant shall within ten days of the date of such appeal give security for the probable costs of the investigation and of the appeal, the amount whereof shall be fixed by the registrar. Except as aforesaid, and except so far as relates to stamps, every such appeal shall be dealt with and disposed of in the same manner and subject to the same rules as appeals from interlocutory orders of district courts are dealt with and disposed of.

Digitized by Google

III.—*Publication of Claims.*

Registrar shall notice claimants. [§ 27, 4 of 1889]

22 *So soon as the registrar shall have completed his inquiries respecting the lands in any division, he shall prepare a notice calling upon all persons who may assert a right adverse to that of any of the claimants whose claims have been upheld by him, to assert such right within six months from the date thereof; and every such notice shall be as near as may be in the form D in schedule I. hereto annexed.*

Final notice to all claimants. [*See* § 29, 4 of 1889]

23 And the registrar shall cause copies of the said notice in the English, Sinhalese, and Tamil languages to be published at least once a month in the *Government Gazette* and in two of the local newspapers, and to be affixed on the walls of the kachcheri and the several courts of the district in which the said division is situated, and in such other localities whereby the greatest possible publicity thereto may be secured; and shall also cause the said notice to be advertised by beat of tom-tom once a month at least during the said period of six months throughout the said division.

Claims to be open to inspection.

24 All the said claims (whether delivered by the claimants to the registrar or by him reduced to writing) shall at all reasonable times within the said period of six months, upon a written application in that behalf, be open to the inspection and perusal of all persons claiming to be interested in the said lands, and of their respective duly authorized agents, with liberty to them to demand and receive copies thereof or extracts therefrom, at their own costs and charges respectively.

And to be decided by registrar.

25 And every such claim as shall have been made in pursuance of such notice as aforesaid shall be dealt with and disposed of by the registrar, unless the parties agree to refer the same to arbitration, in the same manner and subject to the said provisions hereinbefore set forth in respect of claims made under the 8th section.

IV.—*Registration of existing Titles, Interests, and Incumbrances.*

After expiration of six months from notice land and titles to be registered. [*See* § 26, 4 of 1889]

26 Immediately after the lapse of the period of six months mentioned in the 22nd section the registrar shall proceed to register all the lands situate within the said division by entering in a book (bearing the name of such division or of the village or district wherein it is situate) a copy of the plan thereof, and also a copy of each allotment thereof on a separate page, together with the name of the owner or owners, and of all other persons whose rights and interests, whether in possession, reversion, remainder, or expectancy, and whether by way of lease, mortgage, plantation, or otherwise, shall have been upheld up to date, together with such other particulars and references as may be necessary to secure the proper identification of every such allotment with the land to which it refers, with the claims made thereto and with the certificate to be issued in respect thereof. And every such book and plan shall be kept in

Digitized by Google

duplicate, and one copy thereof shall be preserved in the land register office in Colombo, and the other in the branch office of the province or district in which such village, district, or division is situate.

Books and plans open to inspection.

27 Every such book and plan shall at all reasonable hours, upon a written application in that behalf, be open to the inspection and perusal of all persons claiming to be interested in any of the lands therein registered, and to their duly authorized agents, with liberty to demand and receive copies thereof or extracts therefrom at their own costs and charges.

After the expiration of six months certificates of title to be issued.

[*See* § *19, 4 of 1889*]

28 At the end of the period of six months mentioned in the 22nd section the registrar shall, upon delivery to him of the proper stamp in that behalf, proceed to issue certificates of title, interest, or incumbrance in terms of their respective claims, and stating whether the title is one of the first or of the second class, to each of the persons whose right, title, or interest has not been disputed, or having been disputed shall have been upheld by an award or by the decision of the registrar, or of the Supreme Court in case of an appeal, as hereinbefore provided. Provided, however, that if any proceeding at law or before the registrar in respect of any claim shall be pending at the expiration of the said period of six months, the registrar shall suspend the issuing of the certificate in respect of the right, title, or interest thereby put in issue until the final adjudication thereof, and thereafter and after such further inquiry, as he shall deem necessary, he shall issue in favour of the person or persons whose right, title, or interest shall have been upheld, a certificate of title to such right, title, or interest of such class as shall have been established. Provided also that the registrar may in any other case, where he deems it necessary, suspend the issuing of the certificate; but any person aggrieved by such suspension may appeal therefrom to the Supreme Court; and such appeal shall be entered and dealt with in the same manner and subject to the same rules as appeals under the 21st section. Provided also that the registrar shall in no case issue any certificate of title until he shall have previously registered the land therein referred to in manner provided by the 26th section, as well as the right, title, or interest in respect of which such certificate is about to be issued.

Certificate not to be issued until after registration of land.

Certificates of title: (1) of ownership; (2) of interest: (3) of incumbrance.

29 Every certificate of title shall be either (1) a certificate of ownership; (2) a certificate of interest; or (3) a certificate of incumbrance. Certificates of ownership shall be granted to those persons whose right, as owners in possession (but not necessarily in occupation), to the land or any undivided share thereof (whether subject or not to any lease, mortgage, or other interest) shall have been upheld. Certificates of interest shall be granted to persons whose rights by way of lease, tacit hypothec, charge, lien, planter's interest, contract, or otherwise (except rights by way of mortgage under a notarial instrument and such rights as would be included

Digitized by Google

in a certificate of ownership), or whose rights in remainder, reversion, or expectancy in or to the land or any undivided share thereof have been upheld. Certificates of incumbrance shall be granted to mortgagees of the land or any undivided share thereof or interest therein under notarial instruments.

Forms of certificate of title.

[*See* § *32, 4 of 1889*]

30 Certificates of ownership shall be as near as is material in the form G, certificates of interest as near as material in one of the forms H, and certificates of incumbrance as near as material in the form I in the schedule hereunto annexed, and shall be signed by the registrar, and shall contain a correct plan and description of the land therein referred to, with figures and references necessary to identify it on the plan or division in which it is situate, and a correct statement of the right, title, or interest of the party to whom it is issued, and of all parties having a prior preferent or concurrent right or interest therein, together with the dates or particulars thereof, and (if created by deed) the name and residence of the notary, judge, commissioner, or justice who may have attested the same.

V.—*Effect of Registration.*

Effect of certificate in barring claims.

31 Every certificate of ownership, interest, or incumbrance shall have the effect of absolutely barring all claims to the land therein mentioned, or to any right or interest thereto or therein which shall have arisen or accrued prior to the date of such certificate, and which might have been registered under the provisions of this Ordinance, but which at the date of such certificate had not been so registered, save and except as is excepted by the following section.

What claims may be made after certificate.

32 Excepting as is hereinafter excepted, persons having or claiming to have any right, title, or interest in or to any land against the holder of a certificate of the first class shall be entitled to prosecute their claim by action in some court having jurisdiction in the matter within two years from the date of the certificate; and against the holder of a certificate of the second class within four years from the date of the certificate. Persons absent from the island, whose claims shall not have been preferred by their agents and disposed of under the provisions of this Ordinance, shall be entitled to prosecute their claims within four years from the date of the certificate, whether of the first or the second class.

Persons under disability.

Persons under legal disability shall be entitled to prosecute their claims within three years from their disability ceasing; and the terms hereby fixed for prosecuting claims shall only begin to run against persons claiming estates in remainder

Reversioners.

or reversion from the time when such persons acquired a right of possession or enjoyment of the land or interest which formed the subject of their claims.

Holder of a subsequent decree may apply to registrar for certificate.

33 If any such action as aforesaid shall have been decided in favour of any party and against the holder of a certificate, it shall be competent for such party or any person claiming under him, upon production of a duly certified copy

Digitized by Google

of the decree in his favour, to apply to the registrar for a certificate, and the registrar shall, subject to such investigation as he shall deem expedient, issue to such party or person claiming under him a certificate of title, interest, or incumbrance, as the case may be, of the first or second class, as the case may require, regard being had to the principle laid down in section 10.

Notice of actions to be given to the registrar.

34 No action in the 32nd section mentioned shall prevent any claims being barred, unless written notice of such action shall have been previously given to the registrar. The registrar shall immediately upon the receipt of such notice record the same and the date of receiving it.

After term for bringing action has expired, certificate of second class may be exchanged for certificate of first class.

35 It shall be lawful for the holder of a certificate of the second class, at any time after the expiration of four years from the date thereof, to apply to the registrar to have it exchanged for a certificate of the first class; and if the registrar shall have received no notice of any action having been commenced with reference to the land or interest forming the subject of such certificate, within the time within which such action is required to be brought under the 32nd section, or if any such action shall have been brought and decided in favour of the holder of the certificate, the registrar shall give to such holder a certificate of the first class in exchange for his certificate of the second class, and such certificate of the first class shall be taken for all intents and purposes as dated on the same day as the certificate of the second class for which it shall be given in exchange.

Purchasers and mortgagees for valuable consideration protected.

36 Should the holder of a certificate of the first class have alienated, demised, or incumbered for valuable consideration the land or interest mentioned in such certificate at any time after three years from the date thereof, and before any notice of action has been given to the registrar as hereinbefore provided by the 34th section, and the alienee, lessee, or mortgagee shall have duly registered such alienation, demise, or incumbrance, all rights and claims in or to such land or interest which shall not have been registered at the time of such alienation, demise, or incumbrance, shall, notwithstanding that any claimant may have been under disability or entitled in remainder or reversion only at the date of such alienation or incumbrance, be deemed to be extinguished and null and void as against the alienee, lessee, or mortgagee for valuable consideration, saving, however, to every claimant the right to proceed against the person to whom the certificate was originally granted to recover the value of such land or interest at the time when the same was so alienated or incumbered, or such greater sum as may, in the opinion of the court before which the claim is prosecuted, be equivalent to the injury which he has sustained by the loss of the land or interest.

VI.—*Miscellaneous.*

Notices how given.

37 When any notice is required to be given under any of the provisions of this Ordinance, it shall be sufficient (unless otherwise expressly required by this Ordinance) if

Digitized by Google

such notice is served either personally or left at the last known place of abode of the persons to be served therewith.

Future tacit hypothecs abolished.

38 No lien, charge, mortgage, or hypothec (other than such as may arise or be created under or by virtue of statutory enactment) shall be created or effected so as to be of any legal validity upon or in respect of any immovable property, the title to which shall have been registered under the provisions of this Ordinance, unless the same be created or effected by the order of a competent court or by a last will, or by a duly executed notarial instrument.

Growing crops not an interest in land.

39 Every transfer, assignment, or mortgage effected by any instrument, executed after the passing of this Ordinance, of any vegetable produce of any land to be grown, gathered, or cut after the expiration of one year from the date of such instrument, shall, if the value of the produce thereby expressed to be transferred, assigned, or mortgaged exceed five thousand rupees, be deemed, for the purposes of this Ordinance, and of the said Ordinances No. 8 of 1863* and No. 3 of 1865,* to create an interest in land, notwithstanding that by the terms of such instrument an interest in land would not otherwise be created. But except as aforesaid no vegetable produce growing or to be grown on any land shall be deemed to be an interest in land for the purpose of this Ordinance or of the said Ordinances No. 8 of 1863* and No. 3 of 1865.*

Ordinance to be read as one with former Ordinances.

40 This Ordinance and the Ordinances No. 8 of 1863* and No. 3 of 1865* shall be read as one Ordinance.

Stamps.

41 The stamp duties mentioned in the schedule K hereto annexed shall be chargeable in respect of the instruments therein mentioned instead of the corresponding duties mentioned in the schedule to the said Ordinance No. 3 of 1865.* No stamp duties shall be required for any proceedings taken under this Ordinance save such as are mentioned in the said schedule K or in the schedule to the said Ordinance No. 3 of 1865,* and no certificate of incumbrance to be issued by the registrar shall be liable to or chargeable with stamp duty, if the incumbrance has been previously registered under the provisions of the said Ordinances No. 8 of 1863* and No. 3 of 1865,* or either of them.

Penalty on obstructing persons acting under this Ordinance.

42 Any person who shall wilfully resist, obstruct, or hinder, or who shall incite or assist any person to resist, obstruct, or hinder any person acting in pursuance of any duty or power vested in him by this Ordinance, or who shall unlawfully tear, deface, or remove any notice affixed under any of the provisions of this Ordinance, shall be guilty of an offence, and liable to a fine not exceeding fifty rupees.

Penalty on abuse of authority.

43 Any person who shall, under pretence of performing any act under the authority of this Ordinance, use unnecessary violence or give any vexatious annoyance, shall be liable to a fine not exceeding fifty rupees.

No sequestration or seizure operative unless

44 No sequestration by order of court or seizure in execution of any immovable property shall render null and void or invalid any subsequent alienation or incumbrance

* Both repealed by No. 14 of 1891.

Digitized by Google

of such property, unless a notice of such sequestration or seizure shall be given to the registrar of lands for the district in which such property is situate, within seven days of such sequestration or seizure, anything in the 42nd section of "The Fiscals' Ordinance, 1867," to the contrary notwithstanding. It shall be the duty of such registrar to keep a proper record of such notices, which shall be open to the inspection (upon written application in that behalf) of any person interested therein. notice thereof given to registrar.

45 From and after the expiration of twelve months from the publication of the notice mentioned in the 22nd section, no deed or instrument affecting any land or other immovable property situate in any district brought within the operation of this Ordinance shall be admitted to registration under the said Ordinances No. 8 of 1863* and No. 3 of 1865,* or either of them, unless the title to such land shall have been registered under the provisions of this Ordinance. Deeds relating to lands omitted from register to be incapable of registration.

46 When the title to any land or interest therein shall have been registered under the provisions of this Ordinance, no deed or instrument, other than a last will, affecting such land or interest shall be admissible as evidence of any right, title, or interest therein in any civil proceeding in any court, unless such deed or instrument shall be duly registered under the provisions of the said Ordinances No. 8 of 1863* and No. 3 of 1865.* Deeds relating to registered lands not admissible in evidence unless registered.

47 Repealed by No. 4 of 1889.

48 Nothing in this Ordinance shall be held to affect any rights which the public may possess or be entitled to in respect of any immovable property, or the rights of the Crown. Rights of public and Crown reserved.

49 The 5th section of this Ordinance shall come into operation upon the date of the passing of this Ordinance; the remainder of this Ordinance shall come into operation in each division at such time as its operation shall be proclaimed under the provisions of the 5th section. Operation of Ordinance.

SCHEDULE.

A (Section 6).

Notice of Investigation.

Land Registration.

——— Pattu } *Weligampitiya* { ——— District.
——— Korale } { ——— Province.

Notice is hereby given that I, *A. B.*, Registrar-General of Lands (*Special Commissioner for the Registration of Lands*), will on the ——— day of ——— next proceed to investigate all claims to the lands situate in the village of (*Weligampitiya*), from lot *1* to lot *50* (*as the case may be*), as set forth in the Registration Plan No. *105*.

And I do hereby require all persons owning or interested in the lands within the said village, or their agents or representatives, to appear before me at the (*resthouse at Weligampitiya*) at the time of such investigation, and to state their claims and the nature thereof to the said several lands.

Dated ———. *A. B.*, Registrar-General.
(*Or as the case may be.*)

* Both repealed by No. 14 of 1891.

Digitized by Google

Registration of Titles to Land.

B (Section 8).

Statement of Claims.

Registration Plan No. 105.

——— Pattu } *Weligampitiya* { ——— District.
——— Korale } { ——— Province.

No. of Allotment.	Name of Land.	Extent. A. R. P.	Claimant.	Extent of Claim.	Nature of Title.	Remarks by the Registrar.	Referred to arbitration.	Title made out.
8	*Delgahawatta*	*1 1 32*	*Meddumage Juwanis Perera*	*The whole* ...	*By inheritance as only child of M. Welon Perera and his wife Juwana Silva*			
			Meddumage Issac Perera	*An undivided half*	*By inheritance from M. Francisco Perera, the deceased brother of M. Welon Perera (died 1856)*			
			Adikariage Diyonis Silva	*Mortgage, Rs. 150*	*Bond dated 15th October, 1871. J. D., Notary*			
			Arachchige Bastian	*Lease of whole for five years unexpired*	*Lease dated 20th November, 1873, from Meddumage Juwanis Perera. T. Silva, Notary*			
			Kosgodage Harumanis	*The whole* ...	*Fiscal's sale dated 1st September, 1872*			
			Konstantinu Fernando	*The whole* ...	*Judgment of District Court of Colombo in case No. 56,021, dated 7th January, 1869*			

Date : ———. (Signature of claimant or claimants.)

C (Section 11).

Reference to Arbitration.

Registration Plan No. 105.

Delgahawatta ——— Pattu } *Weligampitiya* { ——— District.
Allotment No. *18.* ——— Korale } { ——— Province.

We, the undersigned, claimants of the above-mentioned land, do hereby agree, under the terms of the 11th section of "The Land Registration Ordinance, 1877," to refer all disputes touching our several claims to the above-mentioned land, as set forth in the statement of claims No. *12*, to the arbitration and award of (*Adambarage Theodoris Alwis*) and (*Disanekge Joronis Pieris*, as the case may be), with power to them to nominate an umpire.

The award to be made within ——— days from the date hereof, unless the time be enlarged.

October 15, 1877.

Witness.
A. B., Clerk.

M. Juwanis Perera.
Mark of (+) *M. Isaac Perera.*
Diyonis.

We, the above-named arbitrators, do hereby nominate the registrar (*or Sembuge Siman Perera*) as umpire.

Witness.
A. B., Clerk.

A. Theodoris Alwis.
D. Joronis Pieris.

Digitized by Google

D (Section 17).

Summons.

Land Registration, Weligampitiya.

To *Kaluhat Harmanis, of Pallanhena.*

You are requested to attend before me at —— o'clock in the forenoon on the —— day of ——, at the (*resthouse at Weligampitiya*) to testify touching the persons entitled to or interested in the land (*Delgahawatta*) in (*Weligampitiya*), and to produce all documents relating thereto which may be in your possession or control.

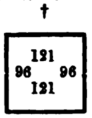
Date :——.

A. B., Registrar.
(*Or as the case may be.*)

G (Section 30).

Certificate of Ownership.

Book vol. V., p. 18.
Registered plan No. 105.
Allotment No. 18.



Scale A

An allotment of land situate in the village (*Weligampitiya*) in the —— korale.
Bounded N. by No. 106 of——.
E. by No. 107 of——.
S. by the river.
W. by high road.
Extent, 2a. 1r. 15p.
Surveyed by ——.

Surveyor-General's Office.
Date :——.

C. D.,
Surveyor-General.

Land Registration Ordinance, 1877.

No. *160.*

—— Pattu } *Weligampitiya* { —— District.
—— Korale } { —— Province.

These are to certify that —— has this day been registered as owner with a title of the *first* (*second*) class of (*an undivided one-half of*) an allotment of land at (*Weligampitiya*) in the district of (*Colombo*), as delineated and described in the margin hereof (*subject to a certain lease* and to a certain incumbrance,† as hereunder mentioned*).

Given at ——, this —— day of ——, 18—.

A. B., Registrar.

* Lease dated —— day of ——, for *20* years in favour of ——. *J. B.*, Notary.

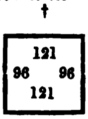
† Mortgage dated —— day of ——, in the favour of ——, for Rs. *250* and interest at *8* per cent. per annum, in favour of ——. *J. D.*, Notary.

H (Section 30).

Certificate of Interest.

(*a*) Lease.

Book vol. V., p. 18.
Registered plan No. 105.
Allotment No. 18.



Scale A

An allotment of land situate in the village (*Weligampitiya*) in the —— korale.
Bounded N. by No. 106 of——.
E. by No. 107 of——.
S. by the river.
W. by high road.
Extent, 2a. 1r. 15p.
Surveyed by ——.

Surveyor-General's Office.
Date :——.

C. D.,
Surveyor-General.

Land Registration Ordinance, 1877.

No. *152.*

—— Pattu } *Weligampitiya* { —— District.
—— Korale } { —— Province.

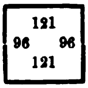
These are to certify that —— has this day been registered as lessee with a title of the *first* (*second*) class for a term of *ten* years (*whereof seven years are still unexpired*) of an allotment of land at (*Weligampitiya*) in the district of (*Colombo*), as described in the margin hereof, by virtue of a lease dated, &c., and attested by ——, Notary Public.

Given at ——, this —— day of ——, 18—.

A. B.,
Registrar.

Digitized by Google

Book vol. V., p. 18.
Registered plan No. 105.
Allotment No. 18.



Scale

An allotment of land situate in the village (*Weligampitiya*) in the —— korale.
Bounded N. by No. 106 of——.
E. by No. 107 of——.
S. by the river.
W. by high road.
Extent, 2a. 1r. 15p.
Surveyed by ——.
Surveyor-General's Office.
Date:——
C. D.,
Surveyor-General.

(*b*) Reversion.

Land Registration Ordinance, 1877.

No. *152.*

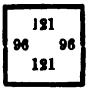
——— Pattu } *Weligampitiya* { ——— District.
——— Korale } { ——— Province.

These are to certify that ——— has this day been registered as owner in reversion with a title of the *first* (*second*) class of an allotment, &c., expectant upon the decease of ———, who has a life interest therein by virtue of a marriage settlement dated, &c., and attested by ———, Notary Public.

Given at ———, this ——— day of ———, 18—.

A. B.,
Registrar.

Book vol. V., p. 18.
Registered plan No. 105.
Allotment No. 18.



Scale

An allotment of land situate in the village (*Weligampitiya*) in the —— korale.
Bounded N. by No. 106 of——.
E. by No. 107 of——.
S. by the river.
W. by high road.
Extent, 2a. 1r. 15p.
Surveyed by ——.
Surveyor-General's Office.
Date:——.
C. D.,
Surveyor-General.

(*c*) Contract.

Land Registration Ordinance, 1877.

No. *152.*

——— Pattu } *Weligampitiya* { ——— District.
——— Korale } { ——— Province.

These are to certify that ——— has contracted to purchase for ——— the owner thereof, and ——— has contracted to sell to ———, an allotment, &c., for the sum of ——— rupees, whereof the sum of ——— rupees has been already paid to ———, and the balance is payable on, &c., under a contract dated, &c., and attested by ———, Notary Public. The title of the said ——— is a title of the *first* (*second*) class to the benefits of the said contract.

Given at ———, this ——— day of ———, 18—.

C. D.,
Registrar.

I (Section 29).

Certificate of Incumbrance.

Book vol. V., p. 18.
Registered plan No. 105.
Allotment No. 18.

An allotment of land called *Delgahawatta*, situated in the village *Weligampitiya*, in the *Alutkuru* korale.

Bounded N. by No. 106 of——.
E. by No. 107 of——.
S. by the river.
W. by high road.

Extent, 2a. 1r. 15p.

——— Pattu } *Weligampitiya* { ——— District.
——— Korale } { ——— Province.

These are to certify that ——— has this day been registered as mortgagee of an allotment of land at (*Weligampitiya*), in the district of (*Colombo*), as described in the margin hereof, by virtue of a mortgage bond for Rs. *150* and interest, bearing date the *15th* day of *July*, *1872*, attested by *F. J. de Saram*, *Notary*, subject (*as the case may be*) to a certain previous incumbrance as hereunder mentioned.*

Given at ———, this ——— day of ———, 18—.

C. D.,
Registrar.

* Previous incumbrance:—A mortgage in favour of Welikalage Siman, of Colombo, for Rs. 100, with right of possession in lieu of interest, dated 15th September, 1862. J. Drieberg. Notary.

Digitized by Google

K.

	Rs.	c.
Every claim under section 8	0	50
Certificate of ownership: for every acre or part of an acre (but in no case to exceed 200 rupees), under section 29 ...	0	50
Certificate of incumbrance or interest, under section 29 ...	1	0
Application, copy, or extract	1	0

5th May, 1877.

No. 4 of 1889.

An Ordinance to amend "The Land Registration Ordinance, 1877."

WHEREAS it is expedient to amend the Ordinance No. 5 of 1877, intituled "The Land Registration Ordinance, 1877:" Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1 This Ordinance shall, so far as is consistent with the tenor thereof, be construed and read as one with the Ordinance No. 5 of 1877, intituled "The Land Registration Ordinance, 1877," and hereinafter referred to as "the principal Ordinance," and this Ordinance may be cited as "The Land Registration Ordinance, 1889." Construction and short title of Ordinance.

2 When any division is brought within the operation of the principal Ordinance by a Proclamation issued under section 5 thereof, any action or proceeding at law heretofore instituted, or which may hereafter be instituted, in any district court or court of requests or before any village tribunal, between the date of such Proclamation and the expiration of the period of six months mentioned in section 27 of this Ordinance— No action at law to be brought between date of Proclamation under section 5 of Ordinance No. 5 of 1877 and expiration of notice under section 27 of this Ordinance.

(*a*) In respect of any title to, or interest in, land situate within such division (except for the realization of a mortgage), when such title or interest can be made the subject of registration; or

(*b*) For the partition or sale, under the provisions of the Ordinance No. 10 of 1863, of any land situate within such division—

shall abate.

3 The registrar may, when he thinks fit, consolidate the claims of one or more persons made in pursuance of the provisions of the principal Ordinance, and the same shall then form the subject of one and the same investigation, and the record of all evidence, whether oral or documentary, taken by the registrar at such investigation shall be filed with any one of the statements of the claims so consolidated as aforesaid; and the finding or decision on each of such claims, and his reasons therefor, and all orders of the registrar in relation thereto, shall be duly entered on the said record, anything in the principal Ordinance to the contrary notwithstanding. Power to registrar to consolidate claims.

4 The registrar may, when he thinks fit, in respect of property held in community by a husband and wife, allow the wife to prefer a claim for and on behalf of her husband; and such claim when made may be dealt with in manner provided by the principal Ordinance as if such claim had been made personally by the husband or by his agent. Claim of married woman on behalf of husband.

5 At any investigation of disputed or undisputed claims, the registrar may, if he thinks fit, and he shall, when the other claimants consent thereto, receive and record any claim made by any person to or in respect of any land which has not previously been received or Power to registrar to accept claims at the investigation

Digitized by Google

although not previously received or recorded.

recorded under the provisions of the principal Ordinance. And every such claim so received and recorded as aforesaid shall be dealt with and disposed of in the same manner and subject to the same provisions as set forth in the principal Ordinance in respect of claims made under the 8th section thereof.

Power to registrar to issue writs of possession.

6 When the registrar shall have recorded, under section 12 of the principal Ordinance, on the statement of claims whether the title to the land or interest claimed is one of the first class or of the second class, or when the registrar shall have determined and decided upon the respective claims of the parties and recorded on the statement of claims whether the title made out is one of the first class or of the second class under the provisions of section 14 of the principal Ordinance, every claimant whose claim has been upheld, or his agent, may apply to the registrar for a writ of possession as against the unsuccessful claimant or claimants, and the registrar may at his discretion order such writ to issue as near as material in the form A in schedule I. hereto, upon the applicant giving such security as shall be determined by the registrar, and such writ shall be enforced according to the terms thereof by the fiscal, in the same manner as if such writ was issued by a district court.

Proviso.

Provided that in any case in which an appeal is allowed to the Supreme Court under the 21st section of the principal Ordinance, no writ of possession shall issue before the expiry of the time allowed for such appeal, and that in the event of an appeal being taken the registrar may, after the Supreme Court has made order thereon, issue a writ of possession in conformity with such order.

Procedure in event of resistance to execution of writ of possession.

7 If in the execution of a writ of possession issued under section 6 the officer charged with the execution of the writ is resisted or obstructed by any person, or if after the officer has delivered possession the person placed by the officer in possession is hindered by any person in taking complete and effectual possession, the person in whose favour the writ of possession has issued, or his agent, may at any time within one month from the time of such resistance or obstruction, complain thereof to the registrar, and the registrar shall appoint a day for the determination of the complaint, and intimate to the person obstructing the writ that he will be heard in opposition to the petitioner if he appears before the registrar for that purpose on the day so appointed.

Punishment of person obstructing execution of writ of possession.

8 On the hearing of the matter of the petition of complaint so made, the registrar, if he is satisfied that the obstruction or resistance complained of was occasioned by one or more of the unsuccessful claimants, or by some person at his or their instigation, may sentence such unsuccessful claimant or claimants, or the person acting on the instigation of such unsuccessful claimant or claimants, to imprisonment for a term not exceeding thirty days, and direct the person in whose favour the writ of possession issued to be put in possession of the property.

Claims to property seized to be reported by fiscal and investigated by registrar.

9 If in the execution of a writ issued by the registrar any claim is preferred to, or objection offered against, the seizure or sale of any immovable or movable property which may have been seized thereunder as not liable to be sold, the fiscal or deputy fiscal shall, as soon as the same is preferred or offered, as the case may be, report the same to the registrar, and the registrar shall thereupon proceed in a summary manner to investigate such claim or objection, and shall record the evidence, whether oral or documentary, taken at such investigation, in a separate file; and his finding or decision thereon, and his reasons therefor, and his orders in relation thereto, shall be duly entered on the said record. And the record so made up shall be open at all reasonable times, upon application in writing first being made to the registrar, to the inspection of any party interested in such investigation,

Digitized by Google

or his duly authorized counsel or agent, who shall be entitled to copies of such record or any part thereof to be made at the expense of the party applying for the same.

Registrar may stay sale.

10 If the property to which the claim or objection applies shall have been advertised for sale, the sale may (if it appears to the registrar necessary) be postponed for the purpose of making the investigation mentioned in the preceding section. Provided that no such investigation shall be made if it appears to the registrar that the making of the claim or objection was designedly and unnecessarily delayed with a view to obstruct the ends of justice.

Claimant to adduce evidence.

11 The claimant or objector must on such investigation adduce evidence to show that at the date of the seizure he had some interest in, or was possessed of, the property seized.

Discretion of registrar to release the property claimed.

12 If upon the said investigation the registrar is satisfied that for the reason stated in the claim or objection such property was not, when seized, in the possession of the person against whose property the writ was issued, or of some person in trust for him, or in the occupancy of a tenant or other person paying rent to him, or that, being in the possession of the person against whose property the writ issued, at such time it was so in his possession, not on his own account or as his own property, but on account of, or in trust for, some other person, or partly on his own account and partly on account of some other person, the registrar shall pass an order releasing the property wholly, or to such extent as he thinks fit, from seizure.

Registrar may disallow the claim.

13 If the registrar is satisfied that the property was at the time it was seized in possession of the person against whom the writ issued as his own property, and not on account of any other person, or was in possession of some other person in trust for him, or in the occupancy of a tenant or other person paying rent to him, the registrar shall disallow the claim.

Appeal to the Supreme Court from finding of the registrar.

14 If any party to any petition of complaint or to any investigation into any claim or objection against the execution of a writ be dissatisfied with any finding, decision, order, or sentence of the registrar given in respect of such petition of complaint or such investigation, he may within ten days after the pronouncing thereof appeal to the Supreme Court; and the registrar shall without delay forward to the said court the record so made up as aforesaid, and the said court shall make such order as the justice of the case may require; and such order as shall be made by the Supreme Court under this section the registrar shall duly carry into effect. Every such appeal shall be dealt with and disposed of in the same manner and subject to the same rules as appeals from orders of district courts are dealt with and disposed of.

Proviso.

Provided, however, that no appeal shall be so forwarded as aforesaid unless the appellant shall, within ten days from the date of such appeal, give security for the costs of the hearing or investigation and of the appeal, the amount whereof shall be fixed by the registrar.

Proviso.

Provided also that no appeal from any sentence of the registrar shall have the effect of staying the execution of such sentence, unless the appellant shall enter into a recognizance with or without sureties, as the registrar shall consider necessary, to appear and abide by the judgment of the Supreme Court upon the appeal.

Certificate to issue in name of deceased claimant.

15 In case a claimant shall die in the interval between the date of his claim being upheld under the principal Ordinance and the date on which the certificate of title shall be issued, the certificate shall be issued in the name of the claimant, and the land shall devolve in like manner as if the certificate had been issued prior to the death of the claimant.

Communication of partition to registrar.

16 Every person or persons partitioning any land after the investigation of the claims to it by the registrar has terminated shall forthwith furnish information respecting such partition to the

Digitized by Google

registrar, and shall deposit with that officer a map of such land. The map shall exhibit distinctly every allotment into which the land has been divided, marked with distinct numbers or symbols, and show the areas, and shall be declared to be accurate by a declaration of a licensed surveyor, in the form B in schedule I. hereto.

Surveyor.

No person shall be permitted to practise as a surveyor under this Ordinance or the principal Ordinance unless he shall have obtained a license from the Surveyor-General in the form C in schedule I. hereto; and in every case in which it may be necessary in the opinion of the Surveyor-General to test the competency of an applicant for a license by an examination to be conducted by the Surveyor-General or under his directions, the Surveyor-General shall be entitled to demand and receive a fee of twenty rupees for every such examination. All such fees shall be accounted for and appropriated as the Governor may from time to time direct.

Effect of partition when property is subject to mortgage.

17 If at the time any partition shall be made under the provisions of the principal Ordinance an undivided share only of the land, and not the whole thereof, shall be subject to mortgage, the right of the mortgagee shall be limited to the share in severalty allotted to his mortgagor by and under the same conditions, covenants, and reservations as shall be stipulated in the mortgage bond, so far as the same shall apply to a share in severalty, and the owner of the share in severalty so subject to mortgage shall, without a new deed of mortgage, warrant and make good to the mortgagee the said several part after such partition as he was bound to do before such partition.

Effect of partition when property is subject to lease.

18 If at the time any partition shall be made under the provisions of the principal Ordinance the property shall be held under any lease, the tenant thereof, or of any part thereof, before such partition was made, shall be tenant of such part set out severally to the respective owners thereof, by and under the same conditions, rents, covenants, and reservations as they held by and under, before such partition; and the owners of the several parts so divided and allotted as aforesaid shall, without any new deed of lease, warrant and make good to the said tenant or tenants the said several parts severally, after such partition as they were bound to do before such partition.

Surrender of title deed on issue of certificate of ownership.

19 Every person entitled to a certificate of ownership under section 28 of the principal Ordinance shall, before the same is issued to him, deposit with the registrar every deed or instrument affecting the land referred to in the certificate.

Upon issuing a certificate of ownership the registrar shall endorse on every deed or instrument so deposited as aforesaid the nature of the certificate which has been issued in respect of the land described in the said deed or instrument. If any such deed or instrument shall relate to or include any property other than the land included in the certificate, the registrar shall return such deed or instrument to the person who deposited the same, but otherwise he shall retain such deed or instrument in his office; and no person shall be entitled to the inspection of any deed or instrument so retained, except upon the personal application or written order of the person who deposited the same, or any person or persons claiming through or under him or upon the order of some competent court.

Cancellation of certificate which has been superseded.

20 Upon the recovery of any land or interest therein, by any proceeding at law, from the holder of any certificate of title, the court shall recall and cancel every such certificate of title, and direct the registrar to cancel or correct any entry in the register book relating to such certificate of title; and the registrar shall give effect to such order and issue an amended certificate of title whenever necessary.

Power of registrar to correct errors.

21 The registrar shall, upon such evidence as shall appear to him sufficient in that behalf, correct errors in any certificate of title or in the register book, or entries made therein respectively, and supply omitted entries. Provided that, in the correction of any such error, he

Digitized by Google

shall not erase or make illegible the original words, and shall affix the date on which such correction was made or entry supplied, and his initials.

Every certificate of title or entry so corrected or supplied shall have the like validity and effect as if such error had not been made or such entry omitted, except as regards any deed or instrument which may have been registered previous to the actual time of correcting the error or supplying the omitted entry.

Registrar may issue summons for the purpose of cancelling certificate of title.

22 In case it shall appear to the satisfaction of the registrar that any certificate of title has been issued in error or contains any misdescription of land or of boundaries, or that any entry in any certificate of title has been made in error, or that any certificate of title or entry has been fraudulently or wrongfully obtained, or that any certificate of title is fraudulently or wrongfully retained, he may summon the person to whom such certificate of title has been so issued, or by whom it has been so obtained, or is retained, or any person in whose possession such certificate may be, to deliver up the same for the purpose of being cancelled or corrected, or for the substitution and issue of such certificate of title as the circumstances of the case may require.

Registrar may apply to court to compel delivery of certificate of title.

23 In case such person cannot be served with such summons, or he shall refuse or neglect to comply with such summons, the registrar may apply to the district court having jurisdiction with respect to the land for which the certificate of title issued, to issue a summons for such person to appear before the court and show cause why such certificate of title should not be delivered up to be cancelled or corrected; and if such person, when served with such summons, shall neglect or refuse to attend before such court at the time therein appointed, it shall be lawful for such court to issue a warrant authorizing and directing the person so summoned to be apprehended and brought before the court for examination.

Court may order delivery of certificate of title.

24 Upon the appearance before the court of any person summoned or brought up by virtue of a warrant as aforesaid, it shall be lawful for the court to examine such person upon oath, and to order him to deliver up such certificate of title, and upon refusal or neglect of such person to deliver up the same pursuant to such order, to commit him to jail for any period not exceeding six months, unless such certificate of title shall be sooner delivered up.

Court may direct registrar to cancel certificate of title.

In such case, or in case a summons or warrant by the court cannot be served, the court may direct the registrar to cancel or correct any entry in the register book relating to such land, and to substitute and issue such certificate of title and make such entries as the circumstances of the case may require, and the registrar shall give effect to such order.

Power to registrar to substitute name of person acquiring original claimant's interest in lieu of original claimant.

25 Every person who has acquired by purchase or otherwise the right, title, or interest in or to any land from a claimant subsequently to such claimant having delivered a statement of his claim or stated such claim to the registrar, and prior to the investigation of such claim by the registrar, shall personally or by his agent notify to the registrar his acquisition, and shall make his claim in writing or shall state verbally the particulars of his claim, and the registrar shall record in writing, and the claimant or his agent shall sign, such particulars in manner provided in the principal Ordinance; and the registrar, when satisfied that the person so notifying his acquisition has become legally entitled to the right, title, or interest of the original claimant to the land, shall proceed to investigate and decide the claim in manner provided by the principal Ordinance as if such person had originally stated his claim under the principal Ordinance.

When lands registered under section 26 of Ordinance No. 5 of 1877, all

26 When the registrar has, under the provisions of the 26th section of the principal Ordinance, registered the lands situate in any division in a book bearing the name of such division or of the village or district wherein it is situated, all subsequent alienations or incumbrances

Digitized by Google

subsequent alienations and incumbrances to be registered in same book.

affecting any right to or interest in any such lands as, under the said section, shall have been registered in the said book, shall be registered by the registrar or registrars of lands in such book, and not in the books mentioned in the 37th section of the Ordinance No. 8 of 1863.[c]

Repeal of section 22 of Ordinance No. 5 of 1877. [* *Repealed by No. 14 of 1891*]

27 The following enactment shall be substituted for section 22 of the principal Ordinance, which is hereby repealed :

So soon as the registrar shall have completed his inquiries respecting the lands in any division, he shall prepare a notice calling upon all persons who may assert a right adverse to that of any of the claimants whose claims have been upheld by him, to assert such right within six months from the date thereof ; and every such notice shall be as near as may be in the form D in schedule I. hereto annexed.

Whenever in any section of the principal Ordinance or any other Ordinance reference is made to the 22nd section of the principal Ordinance, the same shall be taken and read as though the foregoing substituted enactment had been referred to therein.

Notary to ascertain number of allotments of land and insert same at head of deed.

28 It shall be the duty of every notary, from and after the expiration of the said period of six months, before attesting any deed or instrument affecting any land or any interest in land the title to which has been registered under the provisions of the principal Ordinance—

(*a*) To ascertain the number of the allotment of such land in the registered plan, and to insert such number at the head of the deed or instrument attested by him ; and

(*b*) To cause to be registered under the provisions of the law in that behalf every such deed or instrument attested by him ; and for that purpose he shall be entitled to demand and receive before attestation from the person at whose instance he prepares such deed or instrument the stamp duty payable for such registration, and to refuse to attest such deed or instrument if such stamp duty shall not have been paid.

If any notary shall neglect or fail to perform the duty imposed on him by this section, he shall be guilty of an offence, and shall be liable to a penalty not exceeding two hundred rupees. Provided that no deed or instrument shall be held to be invalid in consequence of the non-performance by the notary of the foregoing duty.

Repeal of sections 20 and 47 and part of section 23 of Ordinance No. 5 of 1877.

29 The words "list and" in the 23rd section of the principal Ordinance and sections 20 and 47 of the said Ordinance shall be and the same are hereby repealed.

Amendment of section 6 of Ordinance No. 5 of 1877.

30 In section 6 of the principal Ordinance the words "or court of requests" shall be inserted before the words "for the partition or sale of any land"; and the said section shall be read and construed accordingly.

Costs.

31 It shall be lawful for the registrar at the hearing of the matter of a petition of complaint under section 8, or at any investigation held under section 9 or 22, to determine by whom the costs of the hearing or investigation shall be payable, and to tax the amount of such costs ; and such costs shall be recoverable in manner provided by section 14 of the principal Ordinance.

Plans may be signed by officer authorized thereto by Surveyor-General.

32 The plan and description of the allotment of land referred to in any certificate issued under section 30 of the principal Ordinance may be signed either by the Surveyor-General or by any officer of his department specially authorized thereto in writing by the Surveyor-General

Rules

33 The rules appearing in schedule II. hereto annexed shall regulate the practice and procedure of the registrar in the matters therein provided ; and the Governor in Executive Council may from time to time make such other rules not inconsistent with this or the principal Ordinance as may be necessary—

Digitized by Google

(*a*) For the guidance of the registrar in dealing with and disposing of claims, and in all other matters relating to the investigation of claims and registration of titles and recovery of costs, damages, moneys, and expenses, and to appeals from the registrar not otherwise provided for in this or the principal Ordinance;

(*b*) For regulating the practice and procedure to be observed by fiscals in the execution of writs of execution against property and person and by the registrar in matters arising therefrom; and

(*c*) For every other purpose necessary for effectually carrying out the several provisions of this and of the principal Ordinance.

SCHEDULE I.

A.—Form of Writ of Possession.

In the matter of the claim of ———, of ———, and others, under "The Land Registration Ordinances, 1877 and 1889."

Registration Plan No. ——.

——— Pattu } ——— { ——— District.
——— Korale } { ——— Province.

A. B.—Statement of claim No. ——.
C. D.—Statement of claim No. ——.
E. F.—Statement of claim No. ——.

To the Fiscal of the ——— Province.

Whereas by an order dated the ——— day of ———, 18—, the registrar upheld the claim of *A. B.*, of ———, claimant under "The Land Registration Ordinances, 1877 and 1889," as against *C. D.*, of ———, and *E. F.*, of ———, to the land ———, No. ———, in registration plan No. ———, bounded ———.

These are to command you that without delay you enter the said land and cause the said *A. B.* to have possession of the said land and premises, or such person as he shall authorize to receive possession of the same, and if need be remove the said *C. D.* and *E. F.* and any person claiming under both or either of them.

You are further commanded to return this writ on or before the ——— day of ———, 18—, with an endorsement showing the day on, and the manner in, which it has been executed, or the reason why it has not been executed.

(Signed) *A. B.*,
Registrar.

The ——— day of ———, 18—.

B.

In the matter of "The Land Registration Ordinances, 1877 and 1889," and in the matter of the partition of land No. ——, registration plan No. ——.

I, ———, solemnly and sincerely declare and affirm as follows:

I am a surveyor specially licensed by the Surveyor-General of the Island of Ceylon for the purposes of "The Land Registration Ordinances, 1877 and 1889."

The plan now produced and shown to me (marked A) is a true and correct survey of the land No. ———, registration plan No. ———; and I have truly and correctly delineated thereon its areas, boundaries, and allotments, and the area of each allotment into which the said land has been subdivided and partitioned.

And I make this solemn declaration conscientiously believing the same to be true.

The ——— day of ———, 18—. (Signed) *A. B.*

Digitized by Google

C.—Surveyor-General's License.

In the matter of "The Land Registration Ordinances, 1877 and 1889."

I, ———, Surveyor-General of the Island of Ceylon, being satisfied of his competency in that behalf, do hereby authorize and license ———, of ———, to practise as a surveyor under "The Land Registration Ordinances, 1877 and 1889."

The ——— day of ———, 18—. ——— Surveyor-General.

D.—Final Notice to Claimants.

Registration Plan No. ——.

——— Pattu } ——— { ——— District.
——— Korale } ——— { ——— Province.

All persons having or pretending to have any claim to any of the lands situated in ——— aforesaid, and asserting a right adverse to that of any of the claimants whose claims have been upheld by the registrar, are hereby required to prefer their claims before the registrar within six months from the date hereof.

The ——— day of ———, 18—. ——— Registrar.

SCHEDULE II.

1. When a day is fixed for the investigation and hearing of a disputed claim, the claimants or their agents shall deliver to the registrar a list of their witnesses and of their documentary evidence, and no witness shall be called nor any document admitted at the investigation other than those appearing in such list, unless the registrar, on cause shown, shall see fit to direct otherwise. Provided that it shall be competent for any such claimant or agent as aforesaid, instead of delivering such list in writing, to appear in person before the registrar and to state verbally the names of the witnesses and to specify the documents intended to be relied on, and the registrar shall record the same in writing, which shall be signed by the claimant or his agent.

2. If any claimant or his agent fails to appear on the day fixed for the investigation of any undisputed claim, and no good and sufficient cause is shown for such absence, it shall be lawful for the registrar to make an order that the claim do abate, or such other order as he may deem fit.

3. If any claimant or his agent fails to appear on the day fixed for the investigation of disputed claims, and no good and sufficient cause is shown for such absence, it shall be lawful for the registrar to proceed with the investigation and to determine and decide upon the respective claims of the parties, or to make such order as he may deem fit.

4. In case of the death of a claimant, it shall be lawful for the registrar, on the application of the legal representative of the deceased, or his agent, to make an order that his name be substituted in the statement of claim in the place of such claimant, and thereupon to proceed with the investigation of the claim.

Digitized by Google

Registration of Titles to Land.

5. If no application be made to the registrar by any person claiming to be the legal representative of a deceased claimant, the registrar may examine such person or persons as he deems necessary for the purpose of ascertaining the name of the legal representative of the deceased, and thereupon issue a summons to such person to appear on a day to be therein mentioned.

6. If the person so summoned appears in person or by his agent and makes application as aforesaid, it shall be lawful for the registrar to substitute his name in the statement of claim in the place of the deceased, and to proceed with the investigation of the claim.

7. If the person so summoned appears in person or by his agent, but does not make application as aforesaid, or neglects to appear and does not account for his absence, and the summons is reported to have been duly served on him, the registrar shall make an order that the claim do abate.

8. In the event of any dispute arising as to who is the legal representative of a deceased claimant, it shall be competent to the registrar to decide, as between the persons before him, who shall be admitted to be such legal representative for the purpose of being substituted in the place of the deceased, and this question shall in such case be dealt with and disposed of by the registrar as an issue preliminary to the investigation of the merits of the claims.

9. When a petition of appeal has been received by the registrar under the principal Ordinance, the appellant shall forthwith give forty-eight hours' notice to the respondent that he will, on a day to be specified in such notice, and within a period of ten days of the date of such appeal, tender security for the costs of the investigation and of the appeal, the amount whereof shall be fixed by the registrar; and on such day the claimants or their agents so noticed shall be heard to show cause, if any, against such security being accepted. And in the event of such security being accepted, the registrar shall forward to the Supreme Court the record made up as provided by the aforesaid section.

10. The security to be required from a party appellant shall be by bond with one or more good and sufficient surety or sureties, or shall be by way of mortgage of immovable property or deposit and hypothecation by bond of a sum of money sufficient to cover the amount fixed by the registrar.

11. If any document produced before the registrar in proof of any claim is written in the Sinhalese or Tamil language, a correct translation thereof shall be furnished by the party producing the same to accompany the original. No such translation shall be read unless the same shall be signed by an interpreter of the Supreme Court, or by a Government or district court sworn translator, or by a sworn translator appointed by the registrar.

12. Every person so appointed by the registrar shall, before he enters upon the duties of his office, receive a certificate from the registrar that he is competent to fulfil the duties of a translator, and take an oath before a justice of the peace faithfully to perform the duties of his office.

13. For every folio or fractional part of a folio of 120 words there shall be payable a fee of 12½ cents for every copy or extract of claims or of the record of evidence, and a fee of 33 cents for every translation of any document.

20th March, 1889.

Digitized by Google

No. 14 of 1891.

An Ordinance relating to the Registration of Titles to Land and of all Deeds affecting Land in this Colony.

Preamble.

WHEREAS it is expedient to consolidate and amend the laws relating to the registration of titles to land and of all deeds affecting land in this colony: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Short title.

1 This Ordinance may be cited for all purposes as "The Land Registration Ordinance, 1891."

Repeal.

2 There shall be repealed as from the commencement of this Ordinance the Ordinances specified in the first schedule to this Ordinance to the extent in the third column of that schedule mentioned.

Proviso I.

Provided that—

(*a*) Any office or branch office established under section 2 of "The Land Registration Ordinance, 1863," shall be deemed to have been duly established under this Ordinance; and

(*b*) The Registrar-General of Lands, the registrars of lands, and the clerks and other officers appointed under sections 3 and 5 of "The Land Registration Ordinance, 1863," shall continue and be deemed to have been duly appointed under this Ordinance; and

(*c*) Any enactment referring to any Ordinance or enactment hereby repealed shall be construed to refer to this Ordinance or to the corresponding enactment in this Ordinance.

Proviso II.

Provided also that this repeal shall not affect—

(*d*) The past operation of any enactment hereby repealed, nor anything duly done or suffered under any enactment hereby repealed; or

(*e*) Any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment hereby repealed; or

(*f*) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed; or

(*g*) Any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid; and any such investigation, legal proceeding, and remedy may be carried on as if this Ordinance had not passed.

I.—*Registration Department, Officers, and Rules.*

Registration office.

3 There shall be established in Colombo a land register office for Ceylon, and branch offices at such other places as to the Governor shall appear necessary.

Registrar-General and registrars of lands.

4 The Governor shall appoint a fit and proper person to execute the duties and powers hereinafter mentioned, who shall be called "The Registrar-General of Lands;" and also one or more persons for each province or district of the island, as he may deem necessary, to assist the said registrar in the execution of the said duties and powers, and who shall be called "Registrars of Lands." And all duties and powers hereinafter required to be exercised by any registrar shall and may be exercised by the Registrar-General.

Digitized by Google

5 Every such Registrar-General and registrar shall, before proceeding to execute any of the duties and powers aforesaid, take and subscribe before some justice of the peace an oath in the form A in the second schedule hereunto annexed, which oath, so taken and subscribed, shall be enrolled in the Supreme Court. Oath of office.

6 The Governor may from time to time appoint such clerks and other ministerial officers as to him may appear necessary, to assist the Registrar-General and registrars in the execution of the duties and powers aforesaid. Clerks and other officers.

7 The Governor may from time to time, with the advice and consent of the Executive Council, direct to be paid out of the Colonial Treasury to such Registrar-General, registrars, clerks, and officers as aforesaid, such salaries or remuneration as to him shall appear reasonable. Salaries.

8 The Governor may from time to time, with the advice and consent of the Executive Council, frame and establish rules and regulations regarding the manner in which the plans and books rendered necessary by this Ordinance are to be made and kept, and the manner in which all deeds and other papers filed or preserved in the said office are to be arranged; also the manner in which the accounts of the said office are to be kept, and generally to provide in every respect for the due working of this Ordinance. Rules of office.

II.—*Preliminary Survey.*

9 The Surveyor-General shall, with the sanction of the Governor, from time to time survey or cause to be surveyed, in such convenient divisions as shall serve the purposes of this Ordinance, the several villages and districts of the island; and shall prepare or cause to be prepared plans thereof, marking thereon the various allotments belonging to or claimed by private individuals and those belonging to or claimed by the Crown, so far as the same can be ascertained. And for the purposes of such survey, or for the amendment of any survey already made, it shall be lawful for the Surveyor-General, or any officer authorized by him in writing, to enter upon all lands situated within such villages or districts as aforesaid, and to require all persons having the custody or possession of any deeds or documents relating thereto to produce the same. And if any such person shall, without reasonable cause, refuse or neglect to produce the same within ten days after the same shall have been demanded, or if any person, when required, shall, without reasonable cause, refuse or neglect to give full information touching the custody or possession thereof, every such person shall be liable to a fine not exceeding fifty rupees. Surveyor-General shall prepare surveys and plans.

10 The Surveyor-General shall be bound to give at least one month's previous notice, by such means as will secure the greatest publicity thereto, in the division intended to be surveyed, of his intention to survey the same, and of the day on which he intends to commence such survey. One month's previous notice of survey.

11 In case the Surveyor-General has already, at the date of the passing of this Ordinance, surveyed any division, and prepared a plan thereof, it shall not be deemed necessary to make a new survey of the same; but every such plan may be accepted and acted upon (with such amendments, if any, as to the said Surveyor-General shall seem necessary) as if the same had been prepared in pursuance of this Ordinance. Surveys and plans already prepared may be acted upon.

12 As soon as the survey and plan of any division shall have been completed, the Surveyor-General shall report the same to the Governor, and shall at the same time deliver or transmit the said plan to the registrar. Plans to be delivered to registrar.

Digitized by Google

III.—*Duplicates of Deeds and Instruments.*

Duplicates to be transmitted to registrar.

13 Every district judge, commissioner, or justice of the peace before whom any deed or other instrument shall be executed under the provisions of the Ordinance No. 17 of 1852, shall deliver or transmit the same to the registrar of the district wherein such judge, commissioner, or justice resides, and in case the land is situate in a district other than that in which such judge, commissioner, or justice resides, he shall likewise transmit or deliver a copy of such deed to the registrar of the last-mentioned district.

Registrar to bind and index all duplicates.

14 Every such registrar shall from time to time cause all duplicates transmitted or delivered to him under the preceding section, or by any notary under the provisions of the Ordinance No. 2 of 1877, to be bound in convenient volumes, distinguished by the name of the judge, commissioner, justice, or notary who has attested the same, and shall keep and preserve the same in his office, and shall also prepare and keep proper indexes thereof for general reference.

Inspection thereof.

And all such duplicates and indexes shall at all reasonable hours, upon a written application in that behalf, be open to the inspection and perusal of all parties claiming to be interested therein, or to their proctors or agents duly authorized thereto in writing, with liberty to demand and receive copies thereof or extracts therefrom.

IV.—*Registration.*

Registrars to prepare books for registration.

15 (1) Every such registrar shall prepare and keep such books as shall be required by the rules and regulations for the registration therein of any deed which may be brought to him for registration as hereinafter provided; allotting to each book some defined division of the province or district, so that every deed relating to lands situate therein may be registered therein in such manner as to facilitate reference to all existing alienations or incumbrances affecting the same lands. And every such book shall be kept in duplicate, and one copy thereof shall be kept in the land register office in Colombo, and the other in the branch office of the said province or district; and the same shall at all reasonable hours, upon a written application in that behalf, be open to the inspection and perusal of all parties claiming to be interested therein, or to their proctors or agents duly authorized thereto in writing, with liberty to demand and receive copies thereof or extracts therefrom.

Inspection thereof.

(2) The volumes and books kept under section 36 and section 37 of the Ordinance No. 8 of 1863* shall be deemed to be parts of the volumes and books kept under this Ordinance.

All deeds, &c., affecting land to be registered.

16 Every deed or other instrument of sale, purchase, transfer, assignment, or mortgage of any land or other immovable property, or of promise, bargain, contract, or agreement for effecting any such object, or for establishing or transferring any security, interest, or incumbrance affecting such land or property (other than a lease at will, or for any period not exceeding one month); or of contract or agreement for the future sale or purchase or transfer of any such land or property; and every deed or act of release, surrender, or annulment of or affecting any such deed or other instrument, and the probate of any will; and every grant of administration affecting any such land or property; and every judgment or order of court affecting any such land or other property, shall be registered in the branch office of the district in which such land or property is situate; that is to say, in the books mentioned in the preceding section, unless or until the division has come within the operation of "The Land Registration Ordinance, 1877." and if the division has come or hereafter comes within the operation of the said Ordinance, in the books mentioned in the 26th section of the said Ordinance.

* Repealed by this Ordinance.

Digitized by Google

17 Every deed, judgment, order, or other instrument as aforesaid, unless so registered, shall be deemed void as against all parties claiming an adverse interest thereto on valuable consideration, by virtue of any subsequent deed, judgment, order, or other instrument, which shall have been duly registered as aforesaid. Provided, however, that fraud or collusion in obtaining such last-mentioned deed, judgment, order, or other instrument, or in securing such prior registration, shall defeat the priority of the person claiming thereunder; and that nothing herein contained shall be deemed to give any greater effect or different construction to any deed, judgment, order, or other instrument registered in pursuance hereof, save the priority hereby conferred on it.

Production of deed, &c., and registration thereof.

18 (1) It shall be lawful for the party gaining an interest or benefit under any deed, judgment, order, or other instrument required to be registered under section 16, personally or by his agent to produce the same, or a duplicate or authenticated copy thereof, to the registrar of the district in which the land or property thereby affected is situate; and such registrar shall forthwith, upon delivery to him of the proper stamp for registration, register the same on the appointed page of the book assigned for the division, village, or district wherein the land thereby affected is situate, and shall transmit a note of such registration to the office of the Registrar-General of Lands to be filed of record.

Registrar may call for proof, and give notice to third parties.

(2) Every such registrar shall be entitled, if he see fit so to do, to require any person desiring such registration to show by affidavit or otherwise, as he may direct, that such deed, judgment, order, or other instrument was duly made, granted, executed, or pronounced. And where he may have reason to apprehend that a fraud is about to be committed on any party, he shall be entitled, and is hereby required, to give notice to such party of the intended registration, in order to prevent the same being affected to his prejudice.

Deeds, &c., to be stamped before registration.

(3) No deed, judgment, order, or other instrument shall be registered, unless the same has been stamped with a stamp denoting that the duty payable thereon has been duly paid as hereinafter provided.

Stamp duties.

(4) The duty payable for the registration of the several instruments mentioned and described in the third schedule hereunto annexed shall be the amount set down in figures against the same respectively, together with the additional duty, if any, payable under section 20.

Registration to be endorsed on document.

19 The registrar shall immediately after such registration make and sign an endorsement thereof on the document produced as aforesaid, and deliver the same to the party effecting the registration, or his agent or representative, and the endorsement shall be as near as practicable in the form B in the fourth schedule hereunto annexed.

Where several lands are included in one deed, stamp duty to be levied in respect of each land.

20 In all cases of transfer by sale, gift, or otherwise, or of mortgage affecting more than one land, the additional stamp duty mentioned in the fifth schedule hereunto annexed shall be levied for the registration of each land other than the first land.

Proviso.

Provided that in cases wherein different allotments are treated and described as one property, and from their situation as respects each other can be included in one survey, the stamp duty shall be leviable as on one land only.

Where several lands included in the same deed are in more than one district.

21 (1) When several lands are affected by the same deed, and those lands lie in more districts than one, it shall be lawful for the party gaining an interest or benefit thereunder to apply to the Registrar-General of Lands in Colombo, or to the registrar of each of the districts in which the lands are situate, to have the deed registered.

(2) If the Registrar-General is applied to, the duty for the registration of such deed in any one of such districts shall be the duty fixed by the third schedule hereunto annexed, together with the duty, if any, payable under section 20, with an increase of ten rupees for the

Digitized by Google

additional registration in the other districts in which the lands are situate. The Registrar-General, upon such application being made to him as aforesaid, shall forthwith cause to be despatched to the registrar of each of such districts the particulars required for the registration of the deed so far as concerns that district, and on receipt from the registrars of such districts of information that the registration has been effected in their districts respectively the Registrar-General shall make and sign an endorsement on such deed of the registration in the said districts.

(3) If the said deed is tendered for registration by the party gaining an interest or benefit thereunder to the registrar of each district in which the lands are respectively situate, the first registrar to whom the deed is tendered shall levy the duty fixed by the third schedule hereunto annexed, together with the duty, if any, payable under section 20 for the registration of such deed, and it shall be registered free of any further duty in the registry office of every other district in which the lands affected thereby are respectively situate.

Applications for registration of probates, &c.

22 When a party applies to have a probate or letters of administration registered, he shall produce to the registrar an authenticated copy of the inventory or list of appraisement filed in the case in which application for probate or administration was made, and shall further give such description of the land as the registrar shall require for the purposes of registration.

Deeds, &c., should describe lands accurately.

23 Every deed, judgment, order, or other instrument, or duplicate or authenticated copy thereof, produced for registration, shall contain embodied therein, or in a schedule annexed thereto, an accurate description of the property which is affected thereby, its boundaries, extent, and situation with respect to the village, pattu, korale, or other division of the district. If such property consists of a portion only of one land or allotment, such portion shall be clearly and accurately defined by its particular boundaries and extent. And if such property consists of an undivided share in a land, it shall be so stated, and a particular description given as aforesaid of the entire land in which such share or interest is held, together with the extent of such share or interest.

Volume and folio of previous registry to be quoted.

24 When any property which shall have been once registered shall be subsequently sold, encumbered, or otherwise affected or dealt with. the deed or instrument purporting to transfer or otherwise deal with or affect such property shall state the volume and folio of the register in which such property has been previously registered, as the same shall appear in the register already made of such property.

Caveat in certain cases.

25 It shall be competent to any party to lodge with the registrar a caveat to prevent the registration of any transfer or security affecting any land or other property as aforesaid; and such caveat shall entitle such party to notice of any application for registration as regards such land or property, unless where the caveat limits the time of its operation, in which case it shall cease to have any force or value upon the lapse of such time. But no such caveat shall be sufficient to prevent the registration applied for, unless it be followed up within thirty days after service of the notice of application by an action before some competent court and notice thereof to the registrar; in which case the registrar shall suspend the registration until the final adjudication of such action.

On death of owner the executor or administrator

26 On the death of any registered owner or other interested party, all lands belonging to him, or in which he may have an interest, shall remain in his name until probate or administration of his estate shall have been granted, whereupon, and upon a written application in that

Digitized by Google

behalf, the name of the executor or administrator shall be registered in the books until a partition, transfer, or alienation of the lands shall have been effected, whereupon, and upon like application, such partition, transfer, or alienation shall be registered as hereinbefore provided. shall be registered.

27 On the partition of any land registered as one allotment, the registrar shall, upon a written application in that behalf, register the new allotments on separate and fresh pages of the book, with such references as may be necessary to identify them with the original registration. On partition a fresh registration shall be effected.

28 The secretary of every district court throughout the island shall, at the end of every month, transmit to the registrar of the province or district in which such court is situate, a list of all persons appointed executors, administrators, guardians, or curators, showing the numbers of the cases in which such appointments have been made. And such registrar shall also from time to time prepare alphabetical lists of the persons so appointed, and keep and preserve the same in his office, and also transmit a copy thereof to the land register office in Colombo. And all such lists shall at all reasonable hours, upon a written application in that behalf, be open to the inspection and perusal of all persons. List of executors, &c.

29 The government agent of every province of the island shall, at the end of every month, transmit to the registrar or registrars in his province a list of all persons who shall have become debtors to the Crown, or sureties to such debtors. And every such registrar shall from time to time prepare alphabetical lists of such debtors and sureties, and keep and preserve in his office, and also transmit a copy thereof to the land register office in Colombo. And all such lists shall, upon a written application in that behalf, be similarly open to inspection and perusal of all persons. List of Government debtors, &c.

30 Any person who shall wilfully resist, obstruct, or hinder, or who shall incite or assist others to resist, obstruct, or hinder any person acting in pursuance of the authority given by this Ordinance, shall be guilty of an offence, and be liable on conviction to a fine not exceeding fifty rupees. Penalty on persons obstructing.

31 Any person who shall, under pretence of performing any act under the authority of this Ordinance, use any unnecessary violence, or give any vexatious annoyance, shall be guilty of an offence, and be liable on conviction to a fine not exceeding fifty rupees. Penalty on abuse of authority.

32 In case any registrar shall refuse or wilfully neglect or delay to perform any duty imposed upon him by this Ordinance, it shall be competent for the district court of the district wherein the land thereby affected is situate, upon affidavit or other proof thereof, to issue a rule on such registrar, calling on him to show cause why such duty shall not be performed; and after cause shown, or upon default thereof, to make such order as the said court may deem right; which order shall have the effect of, and be put in execution in the same manner as, a judgment pronounced by such court. On refusal or neglect of registrars, district court may, on a rule *nisi*, make an order.

33 Any person guilty of fraudulently registering any land or interest not belonging to him, and with intent to defraud or injure the owner thereof, or the person rightly interested therein, or any other person, shall be guilty of an offence, and be liable on conviction to imprisonment of either description for a term which may extend to three years. Penalty for fraudulent registration.

34. Every magistrate and judge before whom any complaints or causes arising in respect of this Ordinance shall be tried, shall at the end of every month transmit to the Registrar-General a list or account of all fines imposed and recovered by such magistrate or judge. List of fines imposed under this Ordinance.

Digitized by Google

SCHEDULE I.

Ordinances repealed.

(See Section 2.)

Number and Year.	Subject or Title.	Extent of Repeal.
8 of 1863 ...	"An Ordinance to provide for the Registration of Titles to Land and of all Deeds affecting Land in this Colony"	The whole
3 of 1865 ...	"An Ordinance to amend the Ordinance No. 8 of 1863"	The whole
12 of 1889 ...	"An Ordinance to amend the Law relating to the Registration of Titles to, and of Deeds affecting, Land in this Colony	The whole

---

SCHEDULE II.

A.—Oath of Office.

(See Section 5.)

I, *A. B.*, do sincerely promise and swear that I will faithfully and diligently execute, to the utmost of my abilities, the duties of Registrar-General of Lands (*or* Registrar of Lands for the *Western* Province, *or* for the District of *Colombo*, *as the case may be*).

So help me GOD,
A. B.

Sworn on the ——— day of ———, 18—.

Before me,
C. D.,
Justice of the Peace.

SCHEDULE III.

(See Section 18.)

Every instrument of sale, purchase, transfer, assignment, or mortgage of any immovable property, or of promise, bargain, contract, or agreement for effecting any such object, or for transferring any security, interest, or incumbrance affecting such property (other than a lease). or of contract or agreement for the future sale or purchase or transfer of any such property—

	Rs.	c.
(*a*) Where the consideration of the instrument is wholly in money, or where the sum recoverable upon the instrument is definite, and where such consideration or sum recoverable does not exceed Rs. 100 ...	1	0
Where it exceeds Rs. 100 and does not exceed Rs. 250	2	0
Rs. 250 and does not exceed Rs. 500	3	0
Rs. 500 do. Rs. 1,000	4	0
Rs. 1,000 do. Rs. 2,500	5	0
Rs. 2,500 do. Rs. 5,000	7	50
Rs. 5,000 do. Rs. 10,000	10	0
And for every further Rs. 10,000 or part of Rs. 10,000	10	0
(*b*) Where the consideration of the instrument is *not wholly* in money, an addition of ...	10	0

Digitized by Google

		Rs.	c.
(c)	Where the money consideration of the instrument is *not stated*, but the *value* of the property is stated—		
	Where such value does not exceed Rs. 100 ...	1	0
	Where it exceeds Rs. 100 and does not exceed Rs. 250	2	0
	Rs. 250 and does not exceed Rs. 500	3	0
	Rs. 500 do. Rs. 1,000	4	0
	Rs. 1,000 do. Rs. 2,500	5	0
	Rs. 2,500 do. Rs. 5,000	7	50
	Rs. 5,000 do. Rs. 10,000	10	0
	And for every further Rs. 10,000 or part of Rs. 10,000	10	0
(d)	Where neither the money consideration of the instrument nor the value of the property is stated ...	20	0
(e)	Where the total amount of money ultimately recoverable upon the instrument is indefinite, a duty of...	25	0
(f)	Where the consideration of the instrument, or where the sum recoverable upon the instrument, is a definite and certain sum of money already lent, advanced, or due, or to be lent and advanced on the execution of the instrument, together with an indefinite sum to be thereafter lent, advanced, or paid, or which may become due upon an account current, the same duty and conditions as to calculation of duty on the definite and certain sum of money already lent, advanced, or due, or to be lent and advanced on the execution of the instrument, as where the sum recoverable on the instrument is definite, together with an additional duty of ...	25	0

2. Every lease, transfer, or assignment thereof—

		Rs.	c.
(a)	Where the consideration is wholly in money and does not exceed Rs. 100	1	0
	Where it exceeds Rs. 100 and does not exceed Rs. 250	2	0
	Rs. 250 and does not exceed Rs. 500	3	0
	Rs. 500 do. Rs. 1,000	4	0
	Rs. 1,000 do. Rs. 2,500	5	0
	Rs. 2,500 do. Rs. 5,000	7	50
	Rs. 5,000 do. Rs. 10,000	10	0
	And for every further Rs. 10,000 or part of Rs. 10,000	10	0
	Provided that the duty shall not exceed that on a lease for five years.		
(b)	Every lease, transfer, or assignment thereof, where the consideration is partly in produce, and the value of such produce is not stated in the instrument, a duty of Rs. 2·50 in addition to the duty upon the stated pecuniary consideration.		
(c)	Every lease, transfer, or assignment thereof, where the consideration consists wholly of produce, a duty of	1	0

3. Every instrument of release, surrender, or annulment, and every receipt or discharge—

	Rs.	c.
Where the amount for which such instrument or receipt or discharge is given does not exceed Rs. 5,000 ...	1	0
Where it is indefinite or it exceeds Rs. 5,000 ...	2	50

Digitized by Google

	Rs.	c.
4. Every instrument of partition, and every judgment or decree of court decreeing such partition, where the value of every land partitioned and divided does not appear on the face of the instrument or judgment or decree: for each land so partitioned and divided a duty of	5	0
Where the value of every land appears on the face of the instrument or judgment or decree, and the total value does not exceed Rs. 100	1	0
Where it exceeds Rs. 100 and does not exceed Rs. 250	2	0
Rs. 250 do. Rs. 500	3	0
Rs. 500 do. Rs. 1,000	4	0
Rs. 1,000 do. Rs. 2,500	5	0
Rs. 2,500 do. Rs. 5,000	7	50
Rs. 5,000 do. Rs. 10,000	10	0
And for every further Rs. 10,000 or part of Rs. 10,000	10	0
5. Caveat for every land affected thereby	10	0
6. Every instrument of *any kind whatsoever* not charged in this schedule nor expressly exempted from registration duty	10	0
7. Every application, copy, or extract	1	0
8. Every judgment or order of court affecting immovable property, and every probate of a will or letters of administration	5	0

Schedule IV.

(See Section 19.)

B.

Registered A* $\frac{5\dagger}{130\ddagger}$

Kandy, January 7, 1884.

John Smith,
Registrar.

* Division of District.
† Volume of Divisional Register.
‡ Folio of Volume.

Schedule V.

(See Section 20.)

	Rs.	c.
Each additional land in every instrument of transfer by sale, gift, or otherwise, or of mortgage affecting more than one land, where the aggregate value of all the lands or the sum recoverable upon the instrument does not exceed Rs. 100	0	25
Where it exceeds Rs. 100 and does not exceed Rs. 250 ...	0	50
Where it exceeds Rs. 250	1	0

13th December, 1891.

Digitized by Google

No. 6 of 1877.

An Ordinance to amend "The Land Acquisition Ordinance, 1876."

(*See under No. 3 of 1876, page 717.*)

No. 8 of 1877.

An Ordinance for the raising by Debentures of a sum of Two hundred and Seventy-five thousand Pounds for the construction of a Railway from Kandy to Matale.

(*As amended by No. 12 of 1877.*)

(*See No. 12 of 1877.*)

Preamble.

WHEREAS it is expedient to provide for the construction of a railway from Kandy to Matale: It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Short title.

1 This Ordinance may be cited for all purposes as "The Matale Railway Ordinance, 1877."

Power to borrow £275,000 sterling on debentures.

2 It shall be lawful for the Governor to raise by the issue of debentures under this Ordinance any sum or sums not exceeding in the whole two hundred and seventy-five thousand pounds sterling, to be applied exclusively in the construction of a railway from Kandy to Matale, and in the purchase of such material, plant, rolling stock, and other things as may be required for or in connection with such work.

Loan to be a charge upon general revenues.

3 The principal moneys and interest secured by the debentures issued under this Ordinance are hereby charged upon and shall be payable out of the general revenues and assets of the Government of Ceylon.

Amount of each debenture and rate of interest.

4 Every debenture issued under this Ordinance shall be for a sum of not less than one hundred pounds sterling, and shall bear interest at a rate not exceeding five per centum per annum.

Issues and signature of debentures.

5 The debentures shall be issued in London on behalf of the Government of Ceylon by the Crown Agents for the Colonies (in this Ordinance referred to as the Crown Agents), and shall be signed by them on that behalf.

Registry of debentures.

6 Every debenture shall, before being issued, be registered in a register book to be kept for that purpose at the office in London of the Crown Agents.

Interest coupons.

7 There shall be attached to every debenture coupons for the payment of the interest to become due in each half-year upon the principal secured by the debenture. The coupons shall be sufficient in number to provide for the payment of the interest, either during the whole period for which the debenture has to run, or for such limited period as the Crown Agents, acting on behalf of the Government of Ceylon, may determine.

Digitized by Google

Form of debentures and coupons.

8 The debentures, and the coupons thereto, may be in such form as the Governor, or the Crown Agents acting on his behalf, may direct or approve.

Debentures and coupons transferable by delivery.

9 Every debenture and coupon, and the right to receive the principal and interest secured or represented thereby, shall be transferable by delivery.

10 Repealed by No. 12 of 1877.

Application of moneys remitted to Crown Agents.

11 The Crown Agents shall, subject to the approval of Her Majesty's Principal Secretary of State for the Colonies for the time being, place and keep the moneys so remitted to them, or so much thereof as may not be required for immediate payments, on deposit at interest in their names with some bank or banks in London or Westminster, and shall hold all such moneys and the accumulations thereon in trust, to apply them, in the first place, in payment of the interest for the current half-year upon the debentures for the time being outstanding, and, in the next place, in the formation of a sinking fund.

Payment of interest.

12 The interest upon the principal secured by each debenture shall run from the day named in that behalf in the debenture, and shall be paid half-yearly, on the days named in that behalf in the debenture, at the office in London of the Crown Agents.

Application of sinking fund.

13 The sinking fund shall be applied in the first place in payment of all expenses of, or incidental to, the redemption of debentures, including the charges of the notary public attending at any drawing thereof, and the cost and expenses of all notices required by this Ordinance to be given, and in the next place, and subject to the aforesaid payments, in repayment of the principal moneys for the time being secured by the debentures.

Debentures to be redeemed by purchase or by annual drawings.

14 The debentures shall, at the option of the Crown Agents, subject to the approval of Her Majesty's Principal Secretary of State for the Colonies for the time being, be redeemed either by purchase in the open market or by annual drawings, and subject to the aforesaid payments the sum to be applied annually to such redemption shall correspond as nearly as may be to, but not exceed, the amount for the time being standing to the credit of the sinking fund.

Appointment of day for drawing of debentures.

15 So long as any of the debentures remain outstanding and unsatisfied the Crown Agents shall in every year, after the day on which the first of the debentures is issued, unless the whole of the money applicable in that year to the redemption of debentures has been applied in the purchase thereof, appoint a day in that year for the drawing by lot of the debentures to be redeemed.

Notice of time and place appointed for drawing.

16 If a day is appointed for drawing, the Crown Agents shall give, by advertisement in the London *Times* newspaper, not less than fifteen days' previous notice, specifying the day on which, and the hour and place at which, the drawing will take place, and the nominal amount of the debentures to be redeemed at that drawing.

Digitized by Google

17 On the day and at the hour and place so specified the Crown Agents shall hold a meeting at which the holder of any debenture may, if he think fit, be present, and shall then in the presence of such debenture-holders (if any) as may attend, and of a notary public, draw by lot out of the whole number of debentures for the time being outstanding debentures of the specified nominal amount. **Mode of drawing.**

18 The Crown Agents shall thereupon declare the distinguishing numbers of the debentures drawn for redemption, and shall, as soon as may be, by advertisement in the London *Times* newspaper, specify those numbers, and appoint a day (not being later as to each debenture than the day on which the then current half-year's interest thereon is payable) on which the principal moneys secured by the debentures so distinguished will be repaid. **Notice of debentures drawn for redemption.**

19 On the day so appointed the Crown Agents shall, at their office in London, on demand, pay to the holders of the debentures drawn for repayment the principal moneys secured by those debentures, with all interest payable thereon up to that day. **Payment of drawn debentures.**

20 From and after the day appointed for the repayment of any debenture all interest on the principal moneys secured thereby shall cease and determine, whether payment of the principal have or have not been demanded. **Cesser of interest from day appointed for payment of principal.**

21 Upon the repayment of the principal moneys secured by any debenture, the debenture, with all the coupons thereunto belonging, shall be delivered up to the Crown Agents to be by them cancelled and forwarded to the Government of Ceylon. Any debenture redeemed by purchase shall likewise be so cancelled and forwarded. **Redeemed debentures to be cancelled.**

22 No money applied in redemption of a debenture shall be re-borrowed, and no debenture shall be issued in respect of, or in substitution for, any cancelled debenture. **Money repaid not to be re-borrowed.**

5th May, 1877.

No. 12 of 1877.

An Ordinance to amend "The Matale Railway Ordinance, 1877."

WHEREAS by the 10th section of "The Matale Railway Ordinance, 1877," provision is made for the appropriation in each half-year out of the revenues and assets of the colony of a sum equal to fifteen shillings sterling per centum on the total nominal amount of all the debentures issued under the said Ordinance on or before a certain day therein mentioned, for the purpose of creating a sinking fund to be applied in manner in the said Ordinance provided: And whereas it is expedient that a sum equal to ten shillings sterling per centum on the total nominal amount of such debentures should be appropriated out of the said revenues and assets for the purposes aforesaid, instead of a sum equal to fifteen shillings per centum on such amount, as by the said Ordinance provided: It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council, as follows: **Preamble.**

Digitized by Google

Repeal of 10th section of No. 8 of 1877.

1 The 10th section of "The Matale Railway Ordinance, 1877," is hereby repealed.

Ten shillings per centum on amount of debentures to be appropriated for sinking fund.

2 So long as any of the debentures issued under the said Ordinance remain outstanding, the Governor shall in each half-year ending with the day on which the interest on the debentures falls due appropriate out of the general revenues and assets of this colony a sum equal to one half-year's interest on the whole of the debentures previously issued, including any which may have been redeemed, and remit that sum to the Crown Agents at such time as will enable them to pay thereout the then current half-year's interest on the day when it falls due. After the expiration of five years from the day on which the first of the debentures is issued, and so long thereafter as any of the debentures remain outstanding, the Governor shall, in each half-year ending as aforesaid, appropriate out of the revenues and assets of this colony an additional sum equal to ten shillings sterling per centum on the total nominal amount of all the debentures issued on or before the first day of that half-year, including any which may have been redeemed, and remit the sum to the Crown Agents with the remittance hereinbefore mentioned.

Ordinance to be read as one with No. 8 of 1877.

3 This Ordinance and "The Matale Railway Ordinance, 1877," shall be read as one Ordinance.

21st November, 1877.

No. 10 of 1877.

An Ordinance to provide for the more convenient administration in this Colony of "The Extradition Acts, 1870 and 1873."

Preamble.

WHEREAS by the Act of the Imperial Parliament known as "The Extradition Act, 1870," it is amongst other things enacted that the said Act when applied by Order in Council shall, unless it is otherwise provided by such Order, extend to every British possession, but with the following among other modifications, namely :

No warrant of a Secretary of State shall be required, and all powers vested in, or acts authorized or required to be done under the said Act by the police magistrates and the Secretary of State, or either of them, in relation to the surrender of a fugitive criminal, may be done by the Governor of the British possession alone ;

and any prison in the British possession may be substituted for a prison in Middlesex :

And whereas by the said Act it is also enacted that—

If by any law or Ordinance made before or after the passing of the said Act by the Legislature of any British possession provision is made for carrying into effect within such possession the surrender of fugitive criminals, who are in or suspected of being in such British possession, Her Majesty may, by the Order in Council applying the said Act in the case of any foreign state, or by any subsequent Order, either—

Digitized by Google

Suspend the operation within any such British possession of the said Act, or any part thereof, so far as it relates to such foreign state, and so long as such law or Ordinance continues in force there, and no longer;

Or direct that such law or Ordinance, or any part thereof, shall have effect in such British possession, with or without modifications and alterations, as if it were part of the said Act.

And whereas by another Act of the Imperial Parliament known as "The Extradition Act of 1873," it is enacted that the said Act shall be construed as one with "The Extradition Act, 1870," and that the said two Acts may be cited together as "The Extradition Acts, 1870 and 1873:"

And whereas it is expedient to provide for the more convenient administration within this colony of "The Extradition Acts, 1870 and 1873," by conferring on the police magistrates of the said colony the like powers and authorities in relation to the surrender of fugitive criminals as are by the said Acts vested in police magistrates and justices of the peace in the United Kingdom:

It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Short title.

1 This Act may be cited as "The Extradition Ordinance, Ceylon, 1877."

Powers of police magistrates in relation to extradition under the Imperial Acts.

2 All powers vested in and acts authorized or required to be done by a police magistrate or any justice of the peace in relation to the surrender of fugitive criminals in the United Kingdom under "The Extradition Acts, 1870 and 1873," are hereby vested in, and may in the said colony be exercised and done by, any police magistrate, in relation to the surrender of fugitive criminals under the said Acts.

Suspending clause.

3 This Ordinance shall not come into operation until Her Majesty shall by Order in Council direct that this Ordinance shall have effect within the colony, as if it were part of "The Extradition Act, 1870," but this Ordinance shall thereafter come into operation as soon as such Order in Council shall have been publicly made known in the colony.*

21st November, 1877.

No. 12 of 1877.

An Ordinance to amend "The Matale Railway Ordinance, 1877."

(*See under No. 8 of 1877, page 793.*)

---

* Order in Council dated February 4, 1878, published in the *Government Gazette* of April 12, 1878.

Digitized by Google

No. 14 of 1877.

An Ordinance to empower the Trustees of the Sailors' Home in Colombo to raise money for the completion of the building required for the same, and to make provision for the regulation and management in certain respects of the Trusts thereof, and for the sale, mortgage, and lease of the property belonging thereto.

Preamble.

WHEREAS it was some years ago deemed expedient to establish a sailors' home in the city of Colombo, and divers sums of money were voluntarily subscribed by sundry persons towards such object, and the Legislative Council of this island voted the sum of ten thousand rupees towards the same purpose, which said sum was duly paid to the trustees of the said home from the General Treasury: And whereas the Principal Collector of Customs for the time being, the Master Attendant of Colombo for the time being, and Frank Mitchell Mackwood of Colombo, merchant, were, by a resolution of a committee of the subscribers to the said sailors' home, appointed trustees thereof and have since acted in the said trusts: And whereas by a deed bearing date the 28th day of November, 1874, and expressed to be made between Bamberandigey Harmanis Perera of the one part and William Dumaresq Wright, Principal Collector of Customs, James Donnan, Master Attendant of Colombo, and the said Frank Mitchell Mackwood of the other part, the lands and tenements described in the first part of the schedule hereto annexed were granted and transferred to the said William Dumaresq Wright, James Donnan, and Frank Mitchell Mackwood, as trustees of the said sailors' home: And whereas by a deed also bearing date the 28th day of November, 1874, and expressed to be made between Wikiremecarloaratchigey Domingo Fernando of the one part and the said William Dumaresq Wright, James Donnan, and Frank Mitchell Mackwood of the other part, the land and tenements described in the second part of the said schedule hereto were granted and transferred unto the said William Dumaresq Wright, James Donnan, and Frank Mitchell Mackwood, as such trustees as aforesaid: And whereas by a deed also bearing date the 28th day of November, 1874, and expressed to be made between Andrew Barthomeusz Nugara of the one part and the said William Dumaresq Wright, James Donnan, and Frank Mitchell Mackwood of the other part, the land and tenements described in the third part of the said schedule hereto were granted and transferred unto the said William Dumaresq Wright, James Donnan, and Frank Mitchell Mackwood, as such trustees as aforesaid: And whereas by a Crown grant dated the 28th day of August, 1876, under the public seal of the island and under the hand of the Right Honourable Sir William Henry Gregory, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, then Governor of the said island, all the title and interest of the Crown to and in the land and

Digitized by Google

tenements described in the fourth part of the said schedule hereto were granted and assigned unto the said William Dumaresq Wright, James Donnan, and Frank Mitchell Mackwood, as such trustees as aforesaid, for the use and purposes of the said sailors' home: And whereas the said trustees have commenced the erection on the said lands and premises, or part thereof, of a building to be used as a sailors' home, but have not sufficient funds to complete the same and to pay off certain liabilities already incurred in respect thereof: And whereas it is expedient to enable the trustees to raise such funds as may be necessary for the completion of the said building and for the payment of such liabilities, and generally to make provision for the regulation and management of the trusts of the said sailors' home and for the sale, mortgage, and lease of the property belonging thereto: It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

1. This Ordinance may be cited for all purposes as "The Colombo Sailors' Home Ordinance, 1877." Short title.

2 The persons lawfully discharging the duties of Principal Collector of Customs of this colony and of Master Attendant of the port of Colombo for the time being respectively shall henceforth be *ex-officio* trustees of the said Colombo Sailors' Home; and it shall be lawful for the Governor to appoint from time to time, as he shall think fit, a third trustee to act with the said *ex-officio* trustees in the execution of the trusts of the said home; and such third trustee from time to time to remove and to appoint another in his place. Appointment of trustees.

3 All the lands, buildings, tenements, and property described in the said schedule hereto and all other property, whether movable or immovable, at present vested in the said William Dumaresq Wright, James Donnan, and Frank Mitchell Mackwood, as trustees of the said home, shall henceforth be deemed for all purposes to be vested in the trustees for the time being of the said sailors' home, to be held upon the trusts and subject to the powers and provisions hereinafter declared. Property vested in the trustees.

4 The general control and management of the property, subject to the trusts of the said sailors' home, and of the rents, profits, and income thereof, shall be vested in the said trustees for the time being. Management of home to be vested in trustees.

5 It shall be lawful for the said trustees at any time or from time to time to sell, mortgage, demise, lease, or otherwise dispose of all or any of the property at any time vested in or belonging to them, as such trustees, upon such terms and subject to such conditions as they shall deem expedient, and from and out of the moneys raised or procured by means of any such sale, mortgage, lease, or other disposition to defray all or any of the expenses or liabilities already incurred, or which may hereafter be incurred, for or in respect of the completion of the said home or otherwise in Power of sale and mortgage.

Digitized by Google

the execution of the trusts thereof, and from and out of such moneys to purchase any other lands or tenements to be held upon the trusts and for the purposes of the said home, or to invest such moneys or any part thereof for the purposes of the said home or in the execution of the trusts thereof in such manner as they shall deem expedient. Provided always that no person, board, corporation, or association of persons, who may advance or pay any money to the said trustees for or in respect or on account of any such sale, mortgage, lease, or other disposition, shall be liable to see to the proper application of such money or accountable for the misapplication thereof.

When home to be opened for sailors.

6 As soon as all the liabilities incurred in respect of the home shall have been defrayed, or sooner, if the said trustees for the time being shall deem it expedient, the said home shall be opened for the admission and entertainment of sailors, and shall be thenceforth managed and governed by the said trustees in accordance with such rules and regulations as the said trustees shall from time to time establish. Provided, however, that it shall be lawful for the said trustees to defer the opening of the said home for such time as they shall deem expedient.

SCHEDULE.

First Part.

All that lot of ground with all the buildings constructed thereon situated and lying at the Front street in the Pettah of Colombo, bounded on the north by the property of Domingo Fernando, on the east by the house of Mr. John Frederick Nugara, on the south by the Norris road, and on the west by the Front street, containing in extent two and ninety one-hundredths square perches, according to the figure of survey bearing date the 23rd day of May, 1848, and attached to the said deed.

Second Part.

All that lot of ground with the buildings constructed thereon situated at Front street in the Pettah, bounded on the north by the property of Salman Fernando, on the east by the house of Mr. J. F. Nugara, on the south by the property of Cancaniradagey Juanis Fernando, and on the west by Front street, containing in extent one and seven one-hundredths square perches, according to the figure of survey dated 23rd May, 1848, and attached to the said deed.

Third Part.

A portion of land with the buildings standing thereon situated at Land street in the Pettah, bearing assessment No. 105, and bounded as follows:—On the north by the other portion of the same property, on the east by the house of Hendrick Fernando, on the south by Norris road and Government ground, and on the west by house of widow Nicolle, containing in extent six and twenty-five one-hundredths square perches (0A. 0R. 6·25P.), according to the figure of survey bearing date the —— October, 1874, made by C. H. Ludovici, and attached to the title deeds thereof.

Digitized by Google

Fourth Part.

An allotment of land situated in Front street, Pettah, in Ward No. 2, within the Municipality of Colombo, Western Province, bounded on the north by lands claimed by Philip Nicolle and the widow J. H. Gerliam, on the east by land claimed by Andrew Nugara and by land purchased by the Sailors' Home Committee, on the south by land purchased by the Sailors' Home Committee, and on the west by land described in plan No. 100,831, containing in extent five perches and twelve-hundredths of a perch (0A. 0R. 5·12P.), according to the survey plan No. 100,830, bearing date the 16th August, 1875, authenticated by A. B. Fyers, Lieutenant-Colonel R.E., Surveyor-General, annexed to the said grant.

2. An allotment of land situated in Front street, Pettah, in Ward No. 2, within the Municipality of Colombo, Western Province, bounded on the north by land claimed by Philip Nicolle, on the east by land described in plan No. 100,830, on the south by land purchased by the Sailors' Home Committee, and on the west by Front street, containing in extent seventy-five hundredths of a perch (0A. 0R. 0·75P.), according to the survey plan No. 100,831, bearing date the 16th August, 1875, and authenticated by A. B. Fyers, Lieutenant-Colonel R.E., Surveyor-General, and annexed to the said grant.

28th November, 1877.

No. 16 of 1877.

An Ordinance to amend the Law relating to Prisons.

(*As amended by No. 24 of 1890 and No. 3 of 1894.*)

WHEREAS it is expedient to amend the law relating to prisons in this island, and to provide rules for the regulation of such prisons: It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows: **Preamble.**

I.—*Preliminary.*

1 This Ordinance may be cited for all purposes as "The Prisons Ordinance, 1877." **Short title.**

2 This Ordinance shall come into operation on the first day of May, 1878. **Operation of Ordinance.**

3 The Ordinance No. 18 of 1844, intituled "An Ordinance for the better regulation of Prisons," the Ordinance No. 2 of 1853, intituled "For the safe custody of Convicts employed upon Public Works," the Ordinance No. 20 of 1866, intituled "An Ordinance to amend the Ordinance No. 18 of 1844," the 9th and 10th sub-sections of the 30th section of "The Fiscals' Ordinance, 1867," and 70th and 71st sections of the said "Fiscals' Ordinance, 1867," and the Ordinance No. 16 of 1869, intituled "An Ordinance to convert the Welikada and Hulftsdorp Prisons into Central Convict Establishments and to vest in the Superintendent thereof certain powers vested in the Fiscal of the Western Province," are hereby severally repealed. **Repeal of former Ordinances.**

Digitized by Google

Prisons.

Interpretation clause.

4 In this Ordinance the following terms shall have the respective meanings hereby assigned to them, unless there is something in the context repugnant thereto :

"Prison" means any jail and includes any prison hospital and any grounds or buildings occupied for the use of the prison ;

"Criminal prisoner" means any prisoner charged with or convicted of any crime or offence, or liable under any sentence, judgment, or other proceeding to the performance of hard labour ;

"Civil prisoner" means any prisoner confined under any civil process or order of court by which hard labour is not imposed ; and any person committed for contempt of court who is not liable to the performance of hard labour.

II.—*Establishment and Officers of Prisons.*

Establishment of prisons.

5 The prisons situated at the places mentioned in the schedule shall be or continue to be prisons for the reception of prisoners of every description committed or remanded under the authority of any court, justice of the peace, or coroner or deputy coroner, having jurisdiction within any part of the districts or limits set opposite the names of such places respectively in the said schedule.

Prisons may be closed and new prisons established.

[§ *1, 24 of 1890*]

Provided always that it shall be lawful for the Governor, with the advice of the Executive Council, by Proclamation, at any time or from time to time to close any of the prisons mentioned in the schedule hereto, or to make any alteration in the districts or limits within which any such prisons are appointed, and also to establish any other prison or prisons for this island or for any part thereof, and any such Proclamation to revoke, alter, or amend; and every prison so established shall become subject to the provisions of this Ordinance in the same manner as if such prison had been mentioned in the schedule hereto.

Temporary shelter of prisoners.

6 Whenever it appears to the Governor that the number of prisoners in any prison is greater than can conveniently or safely be kept therein ; or whenever from the outbreak of epidemic disease within any prison or for the performance of labour or for any other reason it is desirable to provide for the temporary shelter or safe custody of any prisoners without the walls of any prison, provision shall be made in such manner as the Governor may from time to time specially or by any general rules to be made in the manner provided in section 76 direct, for the temporary shelter or safe custody without the walls of the prison of so many of the prisoners as cannot be conveniently or safely kept therein. Prisoners for whom such shelter or custody is provided as aforesaid shall be subject to the provisions of this Ordinance and to any rules to be made under section 76 in the same manner in every respect as if they were within a prison.

Digitized by Google

Prisons.

7 It shall be lawful for the Governor, or the Inspector-General of Prisons, by writing under his hand, to direct the removal of any prisoner from one prison to another; and for the superintendent by writing under his hand to direct the removal of any prisoner from any prison under the charge of such superintendent to any other prison situate within the same province; and such writing shall be sufficient warrant for the jailor of the prison, to which such prisoner shall be so directed to be removed, to receive and detain such prisoner and deal with him according to law.

Governor or Inspector-General may remove prisoners from one prison to another. Superintendent may remove prisoners from one prison to another in the same province.

8 The warrant or sentence of any judge, magistrate, coroner, deputy coroner, or justice of the peace committing any person for any offence cognizable by such judge, magistrate, coroner, deputy coroner, or justice to any prison, wherein such person may be lawfully detained, shall be good and sufficient, whether such prison shall or shall not be within the jurisdiction of such judge, magistrate, coroner, deputy coroner, or justice.

Warrants of commitment by judges, &c., when good out of their jurisdiction.

9 There shall be as heretofore an Inspector-General of Prisons appointed by the Governor, and in such Inspector-General shall be vested (subject to the orders of the Governor) the general control and superintendence of all prisons situate in this island. Such Inspector-General shall hold his office during pleasure. It shall also be lawful for the Governor, whenever in his opinion special occasion shall require it, to appoint a Deputy Inspector-General of Prisons and to confer upon such deputy all or any of the powers vested by this Ordinance in the Inspector-General.

Inspector-General of Prisons.

Deputy.

10 For every prison there shall be a superintendent, a medical officer (who may also be the superintendent), a jailor, and such subordinate officers as the Governor shall think necessary. There shall also be a matron in every prison in which females shall be imprisoned. There may also be an assistant medical officer and an assistant jailor for any specified prison where the Governor may think such necessary. There shall be attached to every prison one officer at least who shall be competent to interpret native languages.

Officers of prison.

11 The superintendent, medical officer, assistant medical officer, jailor, assistant jailor, and matron shall be appointed by the Governor, and shall hold their respective offices during pleasure. The subordinate prison officers shall be appointed by and hold office during the pleasure of the Inspector-General of Prisons.

Appointment of officers.

12 All appointments of any such officers as aforesaid heretofore made shall be deemed to have been made under the provisions of this Ordinance.

Past appointments valid.

III.—*Duties of Officers.*

13 All officers of a prison shall obey the directions of the superintendent: the matron and all subordinate officers shall perform such duties as may be directed by the jailor

Officers to obey superintendent.

Digitized by Google

with the sanction of the superintendent: and the duties of the matron and of each subordinate officer shall be inserted in a book to be kept by her or him.

Officers not to sell or let to prisoners.

14 No officer of a prison shall sell or let, nor shall any person in trust for or employed by him sell or let, or derive any benefit from selling or letting, any article to any prisoner.

Officers not to contract with prisoners.

15 No officer of a prison shall, nor shall any person in trust for or employed by him, have any interest direct or indirect in any contract for the supply of the prison: nor, except so far as is expressly allowed by rules made under section 76, shall he derive any benefit directly or indirectly from the sale of any article on behalf of the prison or belonging to a prisoner.

Superintendent.

Duties of superintendent.

16 Subject to the directions of the Inspector-General of Prisons, the superintendent shall—

(1) Manage the prison in all matters relating to discipline, labour, expenditure, punishment, and control;

(2) Correspond on all matters connected with the prison with the Inspector-General;

(3) Submit to the Inspector-General all prison accounts with proper vouchers for audit;

(4) Periodically inspect all property of the Government in his charge and report thereon to the Inspector-General;

(5) Generally obey all rules made under section 76 for the guidance of the superintendent.

Medical Officer.

Power to make rules as to medical officer's duties.

17 It shall be lawful for the Governor, acting with the advice of the Executive Council, to make rules as to each of the following matters:

(1) How often the medical officer shall visit the prison and see each prisoner;

(2) The records to be made respecting sick prisoners;

(3) Periodical inspection of every part of the prison;

(4) Reports on its cleanliness, drainage, warmth, and ventilation;

(5) Reports on the provisions, water, clothing, and bedding supplied to the prisoners.

Medical officer to obey rules.

The medical officer shall obey such rules.

To report special cases.

18 Whenever the medical officer has reason to believe that the health of a prisoner is or is likely to be injuriously affected by the discipline, diet, or treatment to which he is subjected, the medical officer shall report the case in writing to the superintendent, together with such recommendations as the medical officer thinks proper.

Digitized by Google

19 On the death of any prisoner the medical officer shall forthwith record in writing the following particulars, namely:

To make entries as to death of prisoners.

(1) When the deceased was taken ill;
(2) When the medical officer was first informed of the illness;
(3) The nature of the disease;
(4) When the prisoner died;
(5) And (in cases where a *post mortem* examination is made) an account of the appearances after death; together with any special remarks that may appear to the medical officer to be required.

20 Where an assistant medical officer is appointed to a prison, he shall be competent to perform any duty required by this Ordinance or by any rule made hereunder to be performed by the medical officer.

Assistant medical officer.

Jailor.

21 The jailor shall reside in the prison or in such convenient place near thereto as the superintendent shall by writing appoint. The jailor shall not without the Inspector-General's sanction be concerned in any other employment.

Residence of jailor.

22 The jailor shall deliver to the medical officer daily a list of such prisoners (if any) as are confined in punishment cells.

To deliver lists of prisoners (if any) in punishment cells.

23 Upon the death of a prisoner the jailor shall give immediate notice thereof to the superintendent and to the nearest coroner or deputy coroner of the district, and also, when practicable, to the nearest relative of the deceased. The jailor shall also report to the superintendent from time to time, as they occur, all escapes and recaptures. He shall also report to the superintendent and to the medical officer, without delay, all outbreaks of epidemic disease.

To give notice of death of prisoners.

24 The jailor shall keep or cause to be kept the following records:

To keep books and accounts.

(1) A register of warrants;
(2) A book showing when each prisoner is to be released;
(3) A punishment book for the entry of the punishments inflicted for prison offences;
(4) A visitors' book for the entry of any observations made by visitors to the prison;
(5) A record of the money and other articles taken from prisoners;

and all such other records as may be prescribed by rules made under section 76.

25 The jailor shall be responsible for the safe custody of the records to be kept by him under the preceding section, and also for the commitments and all other documents committed to his care.

Responsible for safe custody of documents.

Digitized by Google

Prisons.

Not to be absent without leave.

26 The jailor shall not be absent from the prison or from his residence, if residing outside the prison, for a night without permission in writing from the superintendent; but, if absent without leave for a night from unavoidable necessity, he shall at the earliest opportunity report the fact and the cause of it to the superintendent.

Assistant jailor.

27 Where an assistant jailor is appointed to a prison, the superintendent may at his discretion by written order assign any part of the jailor's duties to such assistant jailor; and in such case the same responsibilities shall attach to such assistant jailor in respect of such duties as attach to the jailor.

Substitute for jailor in case of necessity.

28 Where there is no assistant jailor, or when his services are not available by reason of sickness or other cause, the superintendent shall, when the jailor is absent from the prison or temporarily incapacitated, appoint by writing under his hand some person to act as his substitute during such absence or incapacity, and the substitute so appointed shall have all the powers and perform all the duties of the jailor.

Matron.

Residence and duties of matron.

29 The matron shall reside in the prison or in such convenient place near thereto as the superintendent shall by writing appoint; and she shall not without the superintendent's sanction absent herself from the prison or from her other dwelling-place, nor shall she without such sanction be concerned in any other employment. It shall be her duty constantly to superintend the female prisoners.

Subordinate Officers.

Powers of gate-keeper.

30 The officer acting as gate-keeper, or any other officer of the prison, may examine anything carried into or out of the prison and may stop and search any person suspected of bringing spirits or other prohibited articles into the prison, and if any such articles or property be found shall give immediate notice thereof to the jailor. Provided that the persons of females shall be searched by some female officer of the prison.

Subordinate officers not to be absent without leave.

31 Subordinate officers shall not be absent from the prison without leave from the superintendent or from the jailor, and before absenting themselves they shall leave their keys in the jailor's office.

Visitors.

Appointment and duties of visitors.

32 It shall be lawful for the Governor, whenever he shall think fit, to appoint one or more fit and proper person or persons to be the visitor or visitors of any prison, and every such visitor to remove and to appoint another or others in his stead. All appointments of visitors heretofore made shall be deemed to have been made under the provisions of this Ordinance. Provided that nothing herein contained shall be taken to abridge or affect the power of any judge of the Supreme Court to visit and examine any prison at any time, how and when he may think fit. Every visitor so appointed shall be at liberty to enter at all times any such

Digitized by Google

prison and to make any inquiries or examination therein as to him shall appear necessary; and every such visitor is hereby required to visit such prison at such periods as the Governor shall direct, unless prevented by illness or other sufficient cause, and shall from time to time make such reports as may be required by the Governor; and any officer of any such prison who shall at any time refuse admittance to any such visitor or to any member of the Legislative Council or to any district judge, police magistrate, or commissioner of a court of requests, having jurisdiction in the district wherein the prison is situated, or to any person authorized by any rule to be made under section 76, to enter the prison, or offer to him any hindrance or obstruction, shall be guilty of an offence, and be liable to be tried and punished therefor under the provisions of section 69.

Visitors to hear complaints.

33 Every visitor so appointed as aforesaid shall have power, and he is hereby required, to hear all complaints which shall be made by any prisoner respecting any deficiency of food or of its being of an inferior or improper quality, or respecting any ill-treatment received from any prison officer; and if such complaint shall clearly appear to such visitor to be frivolous or malicious, it shall be lawful for such visitor to order the confinement of the prisoner making such complaint in a punishment cell for forty-eight hours, there to be kept on the sparest possible diet consistent with health. And the jailor shall carry such order into effect. And if any such visitor shall consider any complaint respecting the quantity or quality of food or of any ill-treatment, not being of a serious character, to be substantiated, he shall make report thereof to the Colonial Secretary; but if he shall consider that such ill-treatment is sufficiently serious to require the intervention of a court of justice, he shall immediately make report thereof to the Queen's Advocate or some deputy Queen's advocate.

[*See No. 1 of 1883*]

IV.—*Admission, Removal, and Discharge of Prisoners.*

Prisoners to be searched on entrance and as often as necessary.

34 When a prisoner is first admitted, and at any time thereafter when considered necessary, he shall be searched, and all weapons and prohibited articles shall be taken from him.

Medical examination of criminal prisoners.

35 Every criminal prisoner shall also, as soon as convenient after admission, be examined by the medical officer, who shall enter in a book to be kept by the jailor a record of the state of the prisoner's health and any observations which the medical officer thinks fit to add.

Effects of criminal prisoners retained.

36 All money or other effects in respect whereof no order of a competent court has been made, and which may be brought into prison by any criminal prisoner or sent to the prison for his use, shall be placed in the custody of the jailor, and disposed of as may be directed by rules to be made under section 76.

Medical examination before removal and discharge of prisoners.

37 All prisoners, previously to being removed to any other prison, shall be examined by the medical officer.

Digitized by Google

V.—*Discipline of Prisoners.*

Requisitions of Ordinance as to separation of prisoners.

38 The requisitions of this Ordinance with respect to the separation of prisoners are as follows :

(1) Males shall be separated from females;

(2) Juvenile prisoners, whenever it is practicable, shall be separated from adults ;

(3) Convicted prisoners, whenever it is practicable, shall be separated from unconvicted ;

(4) Civil prisoners, whenever it is practicable, shall be separated from criminal prisoners ;

(5) Prisoners committed for contempt of court or for the non-payment of any fine or penalty or of money due upon any estreated recognizance or for want of securities shall, whenever it is practicable, be separated from other criminal prisoners.

Cells to be furnished with means of communication.

39 No cell shall be used for separate confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison.

Prisoners under sentence of death.

40 Every prisoner under warrant or order for execution shall, immediately on his arrival in the prison after sentence, be searched by or by order of the jailor, and all articles shall be taken from him, which the jailor deems it dangerous or inexpedient to leave in his possession. Provided that the prisoner, if a female, shall be searched by some female officer of the prison.

To be separately confined and guarded.

41 Every prisoner under such warrant or order, as is mentioned in the preceding section, shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of an officer or guard.

Sentences of hard labour to be enforced.

42 Due provision shall be made in every prison for the enforcement of hard labour in the cases of such prisoners as may be sentenced thereto.

Female prisoners to be attended by females.

43 Female prisoners shall in all cases be attended by female officers.

No gaming to be allowed.

44 No gaming shall be permitted in any prison, and the jailor shall seize and destroy all dice, cards, or other instruments of gaming found in the prison or on the person of any prisoner.

No fee to be taken from a prisoner.

45 No money shall be taken by any prison officer by way of garnish, fee, or gratuity from any prisoner or any person on his behalf or account, on his entrance into or discharge from or during his detention in the prison, under any pretence whatsoever.

VI.—*Food, Clothing, and Bedding of Prisoners.*

Civil prisoner may maintain himself.

46 A civil prisoner shall be permitted to maintain himself and to purchase or receive from private sources at proper hours food, clothing, bedding, or other necessaries, but subject to examination and to such rules as may be approved by the Inspector-General.

Digitized by Google

47 No part of any food, clothing, bedding, or other necessaries belonging to any civil prisoner shall be sold to any other prisoner; and any civil prisoner transgressing this regulation shall lose the privilege of purchasing food or receiving it from private sources for such time as the superintendent thinks proper.

Civil prisoner not to sell provisions.

48 Every civil prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the superintendent with such clothing and bedding as may be necessary.

Allowance of clothing and bedding.

49 Repealed by No. 24 of 1890.

VII.—*Employment of Prisoners.*

50 Civil prisoners may with the superintendent's permission work and follow their respective trades and professions, and when they find their own implements, and are not maintained at the expense of the prison or of the Crown, they shall be allowed to receive the whole of their earnings; but the earnings of such as are furnished with implements or are maintained at the expense of the prison or the Crown shall be subject to a deduction, to be determined by the superintendent, for the use of implements and the cost of maintenance.

Work and earnings of civil prisoners.

51 The medical officer shall from time to time examine the labouring prisoners while they are employed, and shall enter in his journal the name of any prisoner whose health he thinks likely to be injured by a continuance of hard labour, and thereupon such prisoner shall not again be employed at such labour until the medical officer certifies that he is fit for such employment; but if the medical officer certifies that such prisoner may without detriment to his health be employed on some lighter kind of labour, it shall be lawful for the jailor so to employ him.

Examination by medical officer of labouring prisoners.

52 Provision shall, whenever practicable, be made by the superintendent for the employment (so long as they so desire) of all criminal prisoners not subject to hard labour.

Employment of prisoners sentenced to simple imprisonment.

VIII.—*Health of Prisoners.*

53 The names of prisoners desiring to see the medical officer or appearing out of health in mind or body shall be reported by the officer attending them to the jailor; and the jailor shall without delay call the attention of the medical officer to any prisoner desiring to see him, or who is ill, or whose state of mind or body appears to require attention, and shall carry into effect the medical officer's written recommendations respecting alterations of the discipline or treatment of such prisoner.

Names of sick prisoners to be reported to jailor. Jailor to report them to the medical officer.

54 All recommendations given by the medical officer in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the medical officer himself or

Entry of recommendations by medical officer.

Digitized by Google

under his superintendence, shall be entered day by day in his journal, which shall have a separate column, wherein entries shall be made by the superintendent, stating in respect of each recommendation the fact of its having been or not having been complied with, accompanied by such observations, if any, as the superintendent thinks fit to make, and the date of the entry.

Infirmaries.

55 In every prison an infirmary or proper place for the reception of sick prisoners shall be provided.

Bathing of prisoners.

56 All prisoners shall be furnished with proper means of washing or otherwise cleansing themselves and of having their clothing washed; and provision shall be made for their bathing within the prison, if possible, or otherwise at the nearest convenient place; and during such bathing or washing care shall be taken that different classes and sexes of prisoners be kept separate.

IX.—*Visits to and Correspondence of Prisoners.*

Visits to prisoners.

57 Due provision shall be made for the admission, at proper times and under proper restrictions, into every prison of persons with whom criminal prisoners before trial and civil prisoners may desire to communicate.

Power of jailor as to visitors.

58 The jailor may demand the name and address of any visitor to a prisoner; and when the jailor has any ground for suspicion, he may search such visitors or cause them to be searched, but the search shall not be in the presence of any prisoner or of another visitor to a prisoner. In case of any such visitor refusing to be searched, the jailor may deny him admission, and the grounds of such proceedings, with the particulars thereof, shall be entered in his journal.

X.—*Offences in relation to Prisons.*

Carrying liquor, tobacco, or drugs into prison.

59 Whoever, contrary to the regulations of the prison, brings, throws, or attempts by any means whatever to introduce into any prison or any place provided under section 6 for the temporary shelter and safe custody of prisoners, or who supplies or attempts to supply to any prisoner, while in custody outside any prison, any spirituous or fermented liquor, or tobacco, betel, opium, bhang, or other intoxicating or poisonous drug, or any money or any other article which may be prohibited by any rule made under section 76, and every officer of a prison who knowingly suffers any such liquor, tobacco, betel, opium, bhang, drug, money, or other article to be brought, thrown, or introduced into or used in any such prison or place or to be supplied to any prisoner, while in custody outside any prison, contrary to such regulations, and whoever aids and abets any person in committing any offence under this section, shall be guilty of an offence, and on conviction be liable to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, for any period not exceeding three months, or to both.

Suffering liquor, &c., to be sold or used in prison.

Digitized by Google

60 Whoever, contrary to the regulations of the prison, conveys or attempts to convey any letter or other writing to any prisoner in custody, whether within or without any prison, or from any such prisoner to any other person, and every officer of a prison who aids and abets any person in committing any offence under this section, shall be guilty of an offence, and on conviction be liable to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, for any period not exceeding three months, or to both.

Carrying letters to prisoners.

Prison officer abetting.

61 The superintendent shall cause to be affixed in a conspicuous place outside the prison or the place provided as aforesaid a notice in the English, Sinhalese, and Tamil languages respectively, setting forth the penalties incurred by persons committing any offence under sections 59 and 60 respectively.

Notice of penalties to be affixed outside prison.

62 Repealed by No. 3 of 1894.

63 The criminal courts of the district in which an escaped prisoner may be recaptured or surrender, as well as the criminal courts of the district in which he escaped, shall, if possessed in other respects of jurisdiction, be competent *......... to try such prisoner for his escape. Provided that nothing in this section contained shall prevent such escape or attempts to escape being tried and dealt with as offences against prison discipline in manner hereinafter provided.

Jurisdiction of criminal courts.

[* *See No. 3 of 1894*]

XI.—*Prison Offences.*

64 The following acts are declared to be offences against prison discipline:

List of prison offences.

(1) Wilful disobedience of the regulations of the prison by any prisoner;
(2) Assault or use of criminal force by any prisoner;
(3) The use of insulting or threatening language or gestures by any prisoner to any officer or prisoner;
(4) Indecent or disorderly behaviour by any prisoner;
(5) Wilfully disabling himself from labour;
(6) Contumaciously refusing to work;
(7) Filing or cutting irons or bars;
(8) Idleness or negligence at work by any prisoner liable to the performance of hard labour;
(9) Wilful mismanagement of work by any prisoner liable to the performance of hard labour;
(10) Wilful damage to prison property;
(11) Escaping or conspiring to escape, or to assist in escaping or to commit any other of the offences aforesaid.

65 The superintendent, *or in his absence a visitor*, may examine any person touching the offences in the preceding section mentioned, and determine thereupon and punish such offences:

Superintendent's power to punish prison offenders.

[§ *4, 24 of 1890*]

(1) By confinement in a punishment cell for any time not exceeding fourteen days;

Digitized by Google

(2) By ordering the offender for any time not exceeding three days to close confinement, to be there kept upon a diet reduced to such extent as shall be prescribed by any rule made under the provisions of section 76;

(3) By corporal punishment not exceeding twelve lashes or twenty stripes with a rattan;

(4) When the offender is not sentenced to hard labour, by hard labour for any time not exceeding seven days;

(5) Or by any two of the above-mentioned punishments.

Jailor to enter punishments in a book.

[§ 5, 24 of 1890]

66 The jailor shall enter in a separate book, called the Punishment Book, a statement of the nature of any offence that has been punished under the preceding section, with the addition of the name of the offender, the date of the offence, and the amount of punishment inflicted. Such statement shall be signed by the superintendent *or by the visitor who shall have inflicted such punishment.*

Punishment of prisoners by criminal courts.

Or by visitors.

[§ 6, 24 of 1890]

67 *If any prisoner is guilty of repeated offences against prison discipline, or is charged with any offence against prison discipline which the superintendent, or a visitor in the absence of the superintendent, thinks is not adequately punishable under section 65, the superintendent, or in his absence such visitor, shall cause the offender to be prosecuted before the police court of the division in which the offence was committed, with a view to his committal before a superior court, which shall, upon the conviction of the offender, have power to award such punishment as it may in its ordinary jurisdiction impose; or any two visitors shall have power to inquire upon oath or affirmation into the offence and to punish the offender:*

(1) By confinement in a punishment cell or in irons for any term not exceeding one month; or

(2) By corporal punishment not exceeding twenty-five lashes or thirty stripes with a rattan; or

(3) By imprisonment, with or without hard labour, for a term not exceeding six months, such term to be in addition to the term for which he is undergoing imprisonment; or

[§ 6, 24 of 1890]

(4) *By any two of the afore-mentioned punishments.*

No hard labour or corporal punishment to be inflicted on females or civil prisoners.

Provided always that nothing in this or in the 65th section shall authorize the infliction of corporal punishment or confinement in irons on any female prisoner or any prisoner not liable to the performance of hard labour.

Corporal punishment.

68 All corporal punishment within the prison shall be inflicted in the presence of the superintendent or a visitor and the medical officer, subject to the law for the time being in force relating to the infliction of corporal punishment.

Penalty on officers ill-treating prisoners or violating rules.

69 Every jailor and subordinate officer of a prison ill-treating any prisoner or wilfully violating or neglecting any rule contained in this Ordinance or made under section 76, shall be guilty of an offence, and be liable, on

Digitized by Google

conviction before the superintendent, who is hereby authorized to try such offences, to a fine not exceeding one hundred rupees, or on conviction before the police magistrate of the district where such offence shall be committed to a fine not exceeding two hundred rupees, or to imprisonment, with or without hard labour, for a term not exceeding three months, or to both. Any such police magistrate shall have power to award the full amount of such penalty. Any fine imposed by the superintendent under this section may be recovered either by reduction from the convicted officer's salary and allowances, or, upon a report of such conviction being made by the superintendent to the police court of the district, may be enforced by such court in the same manner as fines imposed by such court in the exercise of its ordinary jurisdiction. Provided always that the imposition of any fine by the superintendent shall be subject to appeal to the Inspector-General, who is hereby empowered to confirm, reverse, or modify the sentence of the superintendent, as the justice of the case may require. Every such appeal shall be in writing, and shall be lodged with the superintendent within forty-eight hours of the sentence being passed. Provided also that nothing in this section contained shall be taken to deprive any criminal court of jurisdiction to try and punish any person charged with the ill-treatment of any prisoner. Provided also that no person shall, under this section, be punished twice for the same offence.

Recovery of fines from prison officers.

Appeal from sentence of superintendent.

Ordinary criminal courts to retain their jurisdiction.
No person to be punished twice for the same offence.

XII.—*Miscellaneous.*

70 Except as provided by section 67, and except as hereinafter provided, no prisoner shall hereafter be put in irons save in compliance with the sentence of a competent court.

General provisions as to irons.

71 Prisoners when required to travel from station to station, or being removed from the prison for any other purpose, may be put either in leg-irons or handcuffs as a measure of safety only, and such irons or handcuffs shall be removed on the prisoners arriving at their destination.

Prisoners, when travelling, may be put in irons.

72 Any prisoner who may once have effected his escape from custody, and who has been recaptured, and any prisoner upon whom well-founded suspicion rests of attempting to escape or of conspiring with or aiding others to escape, or who has been guilty of any act of gross insubordination or mutinous conduct, may be put in irons or body-belt by the jailor, who shall at once report the case to the superintendent, who is hereby required to make a full inquiry into the matter and to give such order as shall to him appear necessary, reporting the circumstances without delay to the Inspector-General of Prisons for final decision.

Escaped prisoners.

73 In any other case it shall be lawful to put any prisoners in irons or body-belt, when such may appear to the superintendent necessary or expedient from the nature of the work upon which the prisoners are employed, or by reason of the remoteness from sufficient supervision, or from

Other cases.

Digitized by Google

any other sufficient cause; but in all such cases the sanction of the Inspector-General must be obtained, and the names, sentences, and dates of conviction of the prisoners must be submitted to the Inspector-General.

Release from irons.

74 Any prisoner put in irons or body-belt shall not be released therefrom except on the written order of the superintendent, who shall record the same in his order book and report the matter to the Inspector-General of Prisons.

List to be kept of prisoners in irons.

75 A list of all prisoners who are in irons or body-belts shall be kept at each prison, showing the name of each prisoner, date and length of sentence, date when put in irons or body-belt, and authority for his being so put.

Power to make supplementary rules.

76 It shall be lawful for the Governor, acting with the advice of the Executive Council, from time to time to make general rules for all prisons or special rules for any particular prison or prisons:

(1) For the government of prisons and for the guidance of prison officers, and for regulating the procedure to be followed in investigations into prison offences under sections 65 and 67 respectively;

(2) As to what cells only shall be used for the separate confinement and punishment of prisoners;

(3) As to the time during which prisoners not guilty of offences against prison rules may be confined separately;

(4) As to communication and correspondence of prisoners with their friends and legal advisers;

(5) As to articles to be brought into any prison;

(6) As to sales of articles on behalf of prisons or belonging to prisoners;

(7) As to the food and clothing of criminal prisoners;

(8) For the religious and other instruction of prisoners;

(9) For the classification of prisoners;

(10) As to the nature of the hard labour to be imposed upon the different classes of prisoners liable to perform hard labour;

(11) For the employment and control of convicts within or without prisons, and for the guidance of the officers in charge of such convicts:

(12) For remission of sentences;

(13) For rewards for good conduct;

(14) For the appointment and guidance of visitors of prisons;

[§ 7, 24 *of 1890*]

(15) *For regulating the powers vested, under section 72, in the jailor, superintendent, and Inspector-General of Prisons, regarding the use of irons and body-belts.*

Provided always that such rules shall not be repugnant to any of the provisions of this Ordinance, and shall be duly published in the *Government Gazette.*

Digitized by Google

Copies of such rules, so far as they affect the government of prisons, shall be exhibited in some place to which all persons employed within a prison ordinarily have access.

77 All rules now in force relating to any of the matters contained in this Ordinance shall, so far as such rules are consistent with this Ordinance, remain in force until altered or repealed by the Governor, acting with the advice of the Executive Council. **Present rules.**

78 A copy of the committal of any prisoner by a competent court, coroner, deputy coroner, or justice of the peace, or a copy of the extract from the calendar relating to any prisoner who may have been convicted by the Supreme Court, shall, if such copy be certified by the superintendent of any prison, be sufficient *primâ facie* evidence for all purposes of the lawful custody of such prisoner. Provided, however, that it shall be lawful for a competent court to require the production of the original committal, where the court shall deem the same necessary. **Certified copy of committal sufficient evidence of lawful custody.**

79 Whenever any prisoner is required to appear before any court, coroner, deputy coroner, or justice of the peace to give evidence, or for any other purpose, it shall be lawful for such court, coroner, deputy coroner, or justice in his discretion, if he shall consider the presence of such prisoner necessary for the ends of justice, by a writing under his hand, to direct the superintendent of the prison, where such prisoner shall be imprisoned, to produce such prisoner before such court, coroner, deputy coroner, or justice, and such superintendent shall, in the absence of good and sufficient cause to the contrary, cause such prisoner to be produced in compliance with such order. **Order for production of prisoners before courts of record or officers conducting preliminary investigations.**

80 In case any coroner or deputy coroner shall hold an inquest on the body of any prisoner who shall have died while in custody, no prison officer or prisoner or person engaged in any trade or dealing with the prison shall be a juror at such inquest. **No prisoner to be a juror at an inquest.**

81* All warrants of commitment (except warrants of commitment for trial) and all warrants of remand or of arrest in civil or criminal process issued by any court, coroner, deputy coroner, or justice of the peace may, as heretofore, be addressed to the fiscal or deputy fiscal, and such fiscal or deputy fiscal shall, with as little delay as possible after taking charge of or arresting the person required by such warrant to be committed, remanded, or arrested, give such person into the charge of the superintendent or jailor of some prison of the district over which such court, coroner, deputy coroner, or justice may have jurisdiction, together with a copy of the warrant certified under the hand of such fiscal or deputy fiscal. It shall thereupon become the duty of such superintendent or jailor to take charge of and keep safely such prisoner until he shall be delivered from prison in due **Warrants may be addressed to fiscal, who shall give prisoner into charge of jailor.**

* This section is partially repealed by No. 3 of 1883, itself repealed by No. 15 of 1898.

Digitized by Google

course of law. And the copy of such warrant, so certified as aforesaid, shall be sufficient *primâ facie* evidence for all purposes of the lawful custody of such prisoner.

Jailor to deliver over to fiscal civil and unconvicted criminal prisoners, when so required.

Civil prisoner not to go beyond limit of prison except by order of court.

82 It shall be the duty of the jailor to deliver over to the fiscal or deputy fiscal having jurisdiction in the district in which the prison is situated, or to any person authorized in writing in that behalf by such fiscal or deputy fiscal, any civil and any unconvicted criminal prisoner in charge of such jailor, whenever so required by such fiscal or deputy fiscal or authorized person aforesaid. Provided, however, that no civil prisoner shall be removed or allowed by the fiscal or deputy fiscal to go beyond the walls or other enclosed limit of the prison, in which such prisoner may be confined, unless upon special rule and order of court requiring the attendance of such prisoner, or upon the application of such prisoner to be carried before any such court for the purpose of preferring any complaint or application.

Allowance for maintenance of civil prisoners to be paid over by fiscal to jailor.

83 The allowance for the maintenance of civil prisoners, when paid to the fiscal under the provisions of the 68th section of "The Fiscals' Ordinance, 1867," shall be paid by the fiscal to the jailor of the prison wherein such prisoners are confined, for the purpose of such maintenance.

Warrants of commitment, &c., to be addressed to the superintendent of the jail.

84 All warrants of commitment for trial or of remand or deliverance from jail issued by any court, coroner, deputy coroner, or justice of the peace shall be addressed to the superintendent or jailor of the jail to or from which the person named in the warrant is to be committed or delivered, and such superintendent or jailor shall directly carry such warrant into effect according to law.

Table of rates of allowance for civil prisoners to be affixed in prison.

85 There shall be affixed in a conspicuous part of every prison in which civil prisoners are confined a table of rates of prison allowance for civil prisoners, in the English language, together with a translation thereof in the Sinhalese and Tamil languages respectively.

Return of punishments.

86 The Inspector-General shall make a yearly return to the Legislative Council of all punishments of any kind whatsoever which may have been inflicted within each prison under the provisions of this Ordinance, and the offences for which such punishments were inflicted.

SCHEDULE.

Prisons.	Prisons.	Limits or Districts.
Welikada	Galle	The whole island.
Slave Island	Tangalla	
Breakwater	Matara	
Mahara	Hambantota	
Hulftsdorp	Kurunegala	
Kalutara	Puttalam	
Negombo	Jaffna	
Kegalla	Mannar	
Kandy, Old Jail	Batticaloa	
Kandy, Bogambara	Trincomalee	

Digitized by Google

Prisons.

Prisons.	Limits or Districts.
Panadure ...	The limits for the time being of the jurisdiction of the Panadure police court.
Avisawella ...	The limits for the time being of the jurisdiction of the police court of Avisawella.
Matale ...	The limits for the time being of the jurisdiction of the police court of Matale.
Nuwara Eliya ...	The limits for the time being of the jurisdiction of the police court of Nuwara Eliya.
Badulla ...	The limits for the time being of the jurisdiction of the district court of Badulla.
Balapitiya ...	The limits for the time being of the jurisdiction of the police court of Balapitiya.
Chilaw ...	The limits for the time being of the jurisdiction of the district court of Chilaw.
Mullaittivu ...	The limits for the time being of the jurisdiction of the district court of Mullaittivu.
Vavuniya-Vilan-kulam ...	The limits for the time being of the jurisdiction of the district court of Vavuniya-Vilankulam.
Anuradhapura ...	The limits for the time being of the jurisdiction of the district court of Anuradhapura.

12th December, 1877.

No. 24 of 1890.

An Ordinance relating to Prisons.

WHEREAS it is expedient to amend "The Prisons Ordinance, 1877," hereinafter referred to as "the principal Ordinance:" Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1 For the proviso to section 5 of the principal Ordinance the following proviso shall be substituted, namely: Ordinance No. 16 of 1877, section 5, amended.

Provided always that it shall be lawful for the Governor, with the advice of the Executive Council, by Proclamation, at any time or from time to time, to close any of the prisons mentioned in the schedule hereto, or to make any alteration in the districts or limits within which any such prisons are appointed. and also to establish any other prison or prisons for this island or for any part thereof, and any such Proclamation to revoke, alter, or amend; and every prison so established shall become subject to the provisions of this Ordinance in the same manner as if such prison had been mentioned in the schedule hereto.

2 Section 49 of the principal Ordinance shall be and the same is hereby repealed. Section 49 repealed.

3 It shall be lawful for any officer of a prison to arrest any person who commits an offence under section 59 of the principal Ordinance, or who abets another in committing such offence, and forthwith to make over the person so arrested to the nearest police officer, or to produce him before the nearest police magistrate, to be dealt with according to law. Offenders under section 59 may be arrested without warrant by prison officers.

4 In section 65 of the principal Ordinance, after the word "superintendent" shall be inserted the words "or in his absence a visitor," and the said section shall be read and construed accordingly. Section 65 amended.

Digitized by Google

Section 66 amended.

5 In section 66 of the principal Ordinance, after the word "superintendent" shall be inserted the words "or by the visitor who shall have inflicted such punishment," and the said section shall be read and construed accordingly.

Section 67 amended.

6 In section 67 of the principal Ordinance—

(1) For the first paragraph, commencing with the words "If any prisoner is guilty" and ending with the words "to sentence the offender to be punished," the following shall be substituted, namely:

If any prisoner is guilty of repeated offences against prison discipline, or is charged with any offence against prison discipline which the superintendent, or a visitor in the absence of the superintendent, thinks is not adequately punishable under section 65, the superintendent, or in his absence such visitor, shall cause the offender to be prosecuted before the police court of the division in which the offence was committed, with a view to his committal before a superior court, which shall, upon the conviction of the offender, have power to award such punishment as it may in its ordinary jurisdiction impose, or any two visitors shall have power to inquire upon oath or affirmation into the offence and to punish the offender :

(2) After the words "he is undergoing imprisonment" there shall be inserted the following words :

or (4) By any two of the afore-mentioned punishments.

Section 76 amended.

7 In section 76 of the principal Ordinance the following shall be inserted immediately before the proviso thereto :

(15) For regulating the powers vested, under section 72, in the jailor, superintendent, and Inspector-General of Prisons regarding the use of irons and body-belts.

Governor may appoint assistant superintendent to a prison.

8 (1) The Governor may at his discretion appoint to any prison an assistant superintendent, who shall have all such powers, protections, and privileges, and be liable to all such duties and responsibilities as by law the superintendent of such prison has and is liable to.

(2) In the principal Ordinance, as amended by this Ordinance, wherever the term "superintendent" is used with reference to a prison, it shall be taken to include the assistant superintendent, if any, appointed thereto by the Governor under this section.

Removal of sick prisoners to a public hospital.

9 (1) It shall be lawful for the Inspector-General of Prisons, by writing under his hand, to direct the removal of any sick prisoner from prison to any public hospital within the same province, and such writing shall be sufficient warrant for the medical officer of such hospital to receive and detain therein such prisoner, subject to the lawful orders of the said Inspector-General.

(2) Every prisoner so received into such hospital as aforesaid, so long as he shall not be entitled to his discharge from prison in due course of law, shall continue to be subject to the provisions of the principal Ordinance and to any rules made under section 76 thereof in the same manner and in every respect as if he were within a prison.

(3) The medical officer of such hospital shall in respect of such prisoner have all such powers, and be liable to all such duties as by law the superintendent of a prison has and is liable to.

Power to the Governor to transfer youthful offenders from a prison to a reformatory or certified

10 (1) It shall be lawful for the Governor, by writing under his hand, to order any youthful offender who may be undergoing imprisonment in any prison to be transferred from such prison to any reformatory or certified industrial school, and be there detained for any period which shall be specified in such order, provided that such offender shall not be liable to detention after he shall have attained the age of eighteen years; and a copy of such order certified by the

Digitized by Google

Colonial Secretary or by an assistant colonial secretary for the time being shall be sufficient warrant for the manager of such reformatory or certified industrial school to receive and detain such offender. industrial school.

(2) The several enactments contained in sections 22 to 29, in sections 32 to 43, and in sections 46 to 50 of "The Youthful Offenders' Ordinance, 1886," shall apply in the case of every offender so transferred as aforesaid as though he were detained under the provisions of that Ordinance.

11 The principal Ordinance shall, as from the commencement of this Ordinance, take effect subject to the provisions of this Ordinance, but nothing in this Ordinance shall affect the validity of any act done, right acquired, or liability incurred under the principal Ordinance before the commencement of this Ordinance. Construction of principal Ordinance.

12 This Ordinance may be cited as "The Prisons Amendment Ordinance, 1890," and shall be read as one with the principal Ordinance. Short title.

11th December, 1890.

No. 22 of 1877.

An Ordinance to amend the Ordinance No. 21 of 1873, intituled "An Ordinance to provide for the collection of the sums due to the Crown on Plumbago."

(*See under No. 21 of 1873, page 701.*)

No. 1 of 1878.

An Ordinance to declare the Powers of Assessors appointed under the provisions of the Ordinance No. 7 of 1866.

(*See under No. 16 of 1865, page 522.*)

No. 9 of 1878.

An Ordinance for the raising by Debentures of a sum of One Million Pounds sterling for the construction of a Railway from Nawalapitiya to Nanu-oya.

(*See No. 7 of 1888.*)

WHEREAS it is expedient to provide for the construction of a railway from Nawalapitiya to Nanu-oya: It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1 This Ordinance may be cited for all purposes as "The Nanu-oya Railway Ordinance, 1878." Short title.

2 It shall be lawful for the Governor to raise by the issue of debentures under this Ordinance any sum or sums not exceeding in the whole one million pounds sterling, to be applied exclusively in the construction of a railway from Power to borrow £1,000,000 sterling on debentures.

Digitized by Google

Nawalapitiya to Nanu-oya, and in the purchase of such material, plant, rolling stock, and other things as may be required for or in connection with such work.

Loan to be a charge upon general revenues.

3 The principal moneys and interest secured by the debentures issued under this Ordinance are hereby charged upon and shall be payable out of the general revenues and assets of the Government of Ceylon.

Amount of each debenture and rate of interest.

4 Every debenture issued under this Ordinance shall be for a sum of not less than one hundred pounds sterling, and shall bear interest at a rate not exceeding five per centum per annum.

Issue and signature of debentures.

5 The debentures shall be issued in London on behalf of the Government of Ceylon by the Crown Agents for the Colonies (in this Ordinance referred to as the Crown Agents), and shall be signed by them on that behalf.

Registry of debentures.

6 Every debenture shall, before being issued, be registered in a register book to be kept for that purpose at the office in London of the Crown Agents.

Interest coupons.

7 There shall be attached to every debenture coupons for the payment of the interest to become due in each half-year upon the principal secured by the debenture. The coupons shall be sufficient in number to provide for the payment of the interest, either during the whole period for which the debenture has to run, or for such limited period as the Crown Agents, acting on behalf of the Government of Ceylon, may determine.

Form of debentures and coupons.

8 The debentures, and the coupons thereto, may be in such form as the Governor, or the Crown Agents acting on his behalf, may direct or approve.

Debentures and coupons transferable by delivery.

9 Every debenture and coupon, and the right to receive the principal and interest secured or represented thereby, shall be transferable by delivery.

Mode of providing for payment of interest and principal.

10 So long as any of the debentures remain outstanding the Governor shall in each half-year ending with the day on which the interest on the debentures falls due appropriate out of the general revenues and assets of this colony a sum equal to one half-year's interest on the whole of the debentures previously issued, including any which may have been redeemed, and remit that sum to the Crown Agents at such time as will enable them to pay thereout the then current half-year's interest on the day when it falls due. After the expiration of five years from the day on which the first of the debentures is issued, and so long thereafter as any of the debentures remain outstanding, the Governor shall, in each half-year ending as aforesaid, appropriate out of the revenues and assets of this colony an additional sum equal to ten shillings sterling per centum on the total nominal amount of all the debentures issued on or before the first day of that half-year, including any which may have been redeemed, and remit that sum to the Crown Agents with the remittance hereinbefore mentioned.

Digitized by Google

11 The Crown Agents shall, subject to the approval of Her Majesty's Principal Secretary of State for the Colonies for the time being, place and keep the moneys so remitted to them, or so much thereof as may not be required for immediate payments, on deposit at interest in their names with some bank or banks in London or Westminster, and shall hold all such moneys and the accumulations thereon in trust, to apply them, in the first place, in payment of the interest for the current half-year upon the debentures for the time being outstanding, and, in the next place, in the formation of a sinking fund.

Application of moneys remitted to Crown Agents.

12 The interest upon the principal secured by each debenture shall run from the day named in that behalf in the debenture, and shall be paid half-yearly, on the days named in that behalf in the debenture, at the office in London of the Crown Agents.

Payment of interest.

13 The sinking fund shall be applied in the first place in payment of all expenses of, or incidental to, the redemption of debentures, including the charges of the notary public attending at any drawing thereof, and the costs and expenses of all notices required by this Ordinance to be given, and in the next place, and subject to the aforesaid payments, in repayment of the principal moneys for the time being secured by the debentures.

Application of sinking fund.

14 The debentures shall, at the option of the Crown Agents, subject to the approval of Her Majesty's Principal Secretary of State for the Colonies for the time being, be redeemed either by purchase in the open market or by annual drawings, and, subject to the aforesaid payments, the sum to be applied annually to such redemption shall correspond as nearly as may be to, but not exceed, the amount for the time being standing to the credit of the sinking fund.

Debentures to be redeemed by purchase or by annual drawings.

15 So long as any of the debentures remain outstanding and unsatisfied, the Crown Agents shall in every year, after the day on which the first of the debentures is issued, unless the whole of the money applicable in that year to the redemption of debentures has been applied in the purchase thereof, appoint a day in that year for the drawing by lot of the debentures to be redeemed.

Appointment of day for drawing of debentures.

16 If a day is appointed for drawing, the Crown Agents shall give, by advertisement in the London *Times* newspaper, not less than fifteen days' previous notice, specifying the day on which, and the hour and place at which, the drawing will take place, and the nominal amount of the debentures to be redeemed at that drawing.

Notice of time and place appointed for drawing.

17 On the day and at the hour and place so specified the Crown Agents shall hold a meeting, at which the holder of any debenture may, if he think fit, be present, and shall then in the presence of such debenture-holders (if any) as may attend, and of a notary public, draw by lot out of the whole number of debentures for the time being outstanding debentures of the specified nominal amount.

Mode of drawing.

Digitized by Google

Notice of debentures drawn for redemption.

18 The Crown Agents shall thereupon declare the distinguishing numbers of the debentures drawn for redemption, and shall, as soon as may be, by advertisement in the London *Times* newspaper, specify those numbers and appoint a day (not being later as to each debenture than the day on which the then current half-year's interest thereon is payable) on which the principal moneys secured by the debentures so distinguished will be repaid.

Payment of drawn debentures.

19 On the day so appointed the Crown Agents shall at their office in London, on demand, pay to the holders of the debentures drawn for repayment the principal moneys secured by those debentures, with all interest payable thereon up to that day.

Cesser of interest from day appointed for payment of principal.

20 From and after the day appointed for the repayment of any debenture, all interest on the principal moneys secured thereby shall cease and determine, whether payment of the principal have or have not been demanded.

Redeemed debentures to be cancelled.

21 Upon the repayment of the principal moneys secured by any debenture, the debenture with all the coupons thereunto belonging shall be delivered up to the Crown Agents, to be by them cancelled and forwarded to the Government of Ceylon. Any debenture redeemed by purchase shall likewise be so cancelled and forwarded.

Money repaid not to be re-borrowed.

22 No money applied in redemption of a debenture shall be re-borrowed, and no debenture shall be issued in respect of, or in substitution for, any cancelled debenture.

14th December, 1878.

No. 7 of 1888.

An Ordinance to raise a Loan of Four hundred and Fifty thousand Pounds Sterling for the construction of Lines of Railway from Nanu-oya to Haputale and from Kalutara to Bentota, and to apply the unexpended balance of the Loan raised under the Ordinance No. 9 of 1878 to the construction of the Lines of Railway from Nanu-oya to Haputale and from Kalutara to Bentota.

Preamble.

WHEREAS it is expedient to raise a loan not exceeding four hundred and fifty thousand pounds sterling for the purpose of constructing lines of railway from Nanu-oya to Haputale and from Kalutara to Bentota: And whereas out of the sum of one million pounds sterling raised by debentures under "The Nanu-oya Railway Ordinance, 1878," there remains an unexpended balance, and it is expedient to apply so much of the said balance as may not be required for the purposes specified in section 2 of the said Ordinance to the construction of the said lines of railway from Nanu-oya to Haputale and from Kalutara to Bentota: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

To be read, with the exception of sections 5 and 6, as one with Ordinance No. 19 of 1884.

1 This Ordinance, save and except sections 5 and 6 thereof, and Ordinance No. 19 of 1884, intituled "An Ordinance to declare the terms and conditions applicable to loans authorized to be raised by the Government of Ceylon, and to provide for the creation of Ceylon Inscribed Stock," shall be construed and read as one Ordinance.

Digitized by Google

2 The Governor is hereby authorized to borrow a sum not exceeding four hundred and fifty thousand pounds sterling, British money, by the sale of debentures or by the sale of inscribed stock, or partly by the sale of debentures and partly by the sale of inscribed stock, under the provisions of "The General Loan and Inscribed Stock Ordinance, 1884." — Authority to Governor to borrow by sale of debentures or inscribed stock.

3 The proceeds arising from such loan shall be applied to the construction of lines of railway from Nanu-oya to Haputale and from Kalutara to Bentota. — Proceeds of loan to be applied to construction of railways from Nanu-oya to Haputale and from Kalutara to Bentota.

4 The contributions to the sinking fund as contemplated in sections 10 and 24 of "The General Loan and Inscribed Stock Ordinance, 1884," for the repayment of the said sum of four hundred and fifty thousand pounds sterling, British money, hereby authorized to be borrowed, shall commence after the expiration of three years from the date on which the interest on the first debentures or inscribed stock to be issued under this Ordinance shall begin to run. — Contributions to sinking fund when to commence.

5 It shall be lawful for the Governor to apply so much of the balance of the sum of one million pounds sterling raised by debentures for the construction of a railway from Nawalapitiya to Nanu-oya as may not be required for the purposes specified in section 2 of the Ordinance No. 9 of 1878 to the construction of the said lines of railway from Nanu-oya to Haputale and from Kalutara to Bentota. — Unexpended balance of loan under Ordinance No. 9 of 1878 to be applied to Haputale and Bentota extensions.

6 The Ordinance No. 2 of 1886 is hereby repealed. — Repeal.

11th December, 1888.

No. 14 of 1878.

An Ordinance to amend "The Weights and Measures Ordinance, 1876."

(*See under No. 8 of 1876, page 726.*)

No. 7 of 1879.

An Ordinance for the raising by Debentures of a sum of Two hundred and Ninety-one thousand Pounds for the construction of Waterworks for and on behalf of the Municipality of Colombo.

(*See No. 19 of 1884.*)

WHEREAS it is expedient to provide for the construction of waterworks for and on behalf of the Municipality of Colombo: It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows: — Preamble.

1 This Ordinance may be cited for all purposes as "The Colombo Waterworks Ordinance, 1879." — Short title.

2 It shall be lawful for the Governor to raise by the issue of debentures under this Ordinance any sum or sums not exceeding in the whole two hundred and ninety-one thousand pounds sterling, to be applied exclusively for the — Power to borrow £291.000 sterling on debentures.

Digitized by Google

purpose of the construction of waterworks for the town of Colombo, and in the purchase of such material, plant, rolling stock, and other things as may be required for or in connection with such works.

Loan to be a charge upon general revenues.

3 The principal moneys and interest secured by the debentures issued under this Ordinance are hereby charged upon and shall be payable out of the general revenues and assets of the Government of Ceylon.

Amount of each debenture and rate of interest.

4 Every debenture issued under this Ordinance shall be for a sum of not less than one hundred pounds sterling, and shall bear interest at a rate not exceeding five per centum per annum.

Issue and signature of debentures.

5 The debentures shall be issued in London on behalf of the Government of Ceylon by the Crown Agents for the Colonies (in this Ordinance referred to as the Crown Agents), and shall be signed by them on that behalf.

Registry of debentures.

6 Every debenture shall, before being issued, be registered in a register book to be kept for that purpose at the office in London of the Crown Agents.

Interest coupons.

7 There shall be attached to every debenture coupons for the payment of the interest to become due in each half-year upon the principal secured by the debenture. The coupons shall be sufficient in number to provide for the payment of the interest, either during the whole period for which the debenture has to run, or for such limited period as the Crown Agents, acting on behalf of the Government of Ceylon, may determine.

Form of debentures and coupons.

8 The debentures, and the coupons thereto, may be in such form as the Governor, or the Crown Agents acting on his behalf, may direct or approve.

Debentures and coupons transferable by delivery.

9 Every debenture and coupon, and the right to receive the principal and interest secured or represented thereby, shall be transferable by delivery.

Mode of providing for payment of interest and principal.

10 So long as any of the debentures remain outstanding the Governor shall in each half-year ending with the day on which the interest on the debentures falls due appropriate out of the general revenues and assets of this colony a sum equal to one half-year's interest on the whole of the debentures previously issued, including any which may have been redeemed, and remit that sum to the Crown Agents at such time as will enable them to pay thereout the then current half-year's interest on the day when it falls due. After the expiration of five years from the day on which the first of the debentures is issued, and so long thereafter as any of the debentures remain outstanding, the Governor shall, in each half-year ending as aforesaid, appropriate out of the revenues and assets of this colony an additional sum equal to ten shillings sterling per centum on the total nominal amount of all the debentures issued on or before the first day of that half-year, including any which may have been redeemed, and remit that sum to the Crown Agents with the remittance hereinbefore mentioned.

Digitized by Google

11 The Crown Agents shall, subject to the approval of Her Majesty's Principal Secretary of State for the Colonies for the time being, place and keep the moneys so remitted to them, or so much thereof as may not be required for immediate payments, on deposit at interest in their names with some bank or banks in London or Westminster, and shall hold all such moneys and the accumulation thereon in trust, to apply them, in the first place, in payment of the interest for the current half-year upon the debentures for the time being outstanding, and, in the next place, in the formation of a sinking fund. **Application of moneys remitted to Crown Agents.**

12 The interest upon the principal secured by each debenture shall run from the day named in that behalf in the debenture, and shall be paid half-yearly, on the days named in that behalf in the debenture, at the office in London of the Crown Agents. **Payment of interest.**

13 The sinking fund shall be applied in the first place in payment of all expenses of, or incidental to, the redemption of debentures, including the charges of the notary public attending at any drawing thereof, and the costs and expenses of all notices required by this Ordinance to be given, and in the next place, and subject to the aforesaid payments, in repayment of the principal moneys for the time being secured by the debentures. **Application of sinking fund.**

14 The debentures shall, at the option of the Crown Agents, subject to the approval of Her Majesty's Principal Secretary of State for the Colonies for the time being, be redeemed either by purchase in the open market or by annual drawings, and subject to the aforesaid payments, the sum to be applied annually to such redemption shall correspond as nearly as may be to, but not exceed, the amount for the time being standing to the credit of the sinking fund. **Debentures to be redeemed by purchase or by annual drawings.**

15 So long as any of the debentures remain outstanding and unsatisfied, the Crown Agents shall in every year, after the day on which the first of the debentures is issued, unless the whole of the money applicable in that year to the redemption of debentures has been applied in the purchase thereof, appoint a day in that year for the drawing by lot of the debentures to be redeemed. **Appointment of day for drawing of debentures.**

16 If a day is appointed for drawing, the Crown Agents shall give, by advertisement in the London *Times* newspaper, not less than fifteen days' previous notice, specifying the day on which, and the hour and place at which, the drawing will take place, and the nominal amount of the debentures to be redeemed at that drawing. **Notice of time and place appointed for drawing.**

17 On the day and at the hour and place so specified the Crown Agents shall hold a meeting, at which the holder of any debenture may, if he think fit, be present, and shall then in the presence of such debenture-holders (if any) as may attend, and of a notary public, draw by lot out of the whole number of debentures for the time being outstanding debentures of the specified nominal amount. **Mode of drawing.**

Digitized by Google

Irregular Registration.

Notice of debentures drawn for redemption.

18 The Crown Agents shall thereupon declare the distinguishing numbers of the debentures drawn for redemption, and shall, as soon as may be, by advertisement in the London *Times* newspaper, specify those numbers and appoint a day (not being later as to each debenture than the day on which the then current half-year's interest thereon is payable) on which the principal moneys secured by the debentures so distinguished will be repaid.

Payment of drawn debentures.

19 On the day so appointed the Crown Agents shall at their office in London, on demand, pay to the holders of the debentures drawn for repayment the principal moneys secured by those debentures, with all interest payable thereon up to that date.

Cesser of interest from day appointed for payment of principal.

20 From and after the day appointed for the repayment of any debenture, all interest on the principal moneys secured thereby shall cease and determine, whether payment of the principal have or have not been demanded.

Redeemed debentures to be cancelled.

21 Upon the repayment of the principal moneys secured by any debenture, the debenture with all the coupons thereunto belonging shall be delivered up to the Crown Agents, to be by them cancelled and forwarded to the Government of Ceylon. Any debenture redeemed by purchase shall likewise be so cancelled and forwarded.

Money repaid not to be re-borrowed.

22 No money applied in redemption of a debenture shall be re-borrowed, and no debenture shall be issued in respect of, or in substitution for, any cancelled debenture.

1st December, 1879.

No. 9 of 1879.

An Ordinance to provide for the validity of the registration of certain Marriages, Births, and Deaths made in certain Districts in the Southern Province of this Island.

Preamble.

WHEREAS by the Ordinance No. 6 of 1847,* intituled "An Ordinance to amend in certain respects the Law of Marriages and to provide for the better registration of Marriages, Births, and Deaths," it is enacted that it shall be lawful for the Governor, with the advice of the Executive Council, to establish from time to time such and so many districts within any of the provinces of the said island as shall appear expedient for the purposes of registration under the said Ordinance; and to appoint one Registrar-General of Marriages in this colony, one provincial registrar in each of the provinces thereof, and one or more registrar or registrars to each of such districts:

And whereas by virtue thereof the Southern Province of the said island of Ceylon was by a Proclamation dated the

* Repealed by Ordinances Nos. 1 and 2 of 1895.

Digitized by Google

thirty-first day of January in the year of our Lord One thousand Eight hundred and Sixty-seven, under the hand of His Excellency Sir Hercules George Robert Robinson, the then Governor of Ceylon, divided into twenty-three districts:

And whereas by the Ordinance No. 18 of 1867,* intituled "An Ordinance relating to the registration of Births and Deaths," it is provided that for the purpose of the said Ordinance the Registrar-General, the provincial registrars, and the district registrars of marriages shall also respectively be and act as Registrar-General, provincial and district registrars of births and deaths, and that the division of each province of this island into districts for the registry of marriages shall also form the division for the registry of births and deaths:

And whereas provision is further made by the said Ordinances for the solemnization and registration by district registrars of marriages, births, and deaths occurring within the several districts respectively:

And whereas Francis Ernest Gunaratna, Don Carolis de Alwis Samarasinha Gunawardhana, and Don Alexander de Silva Madanayaka were appointed district registrars of marriages, births, and deaths for the district comprising the town, fort, and four gravets of Galle and Akmimana, in the Southern Province:

And whereas Don David de Silva Abhayawikkrama was appointed district registrar of marriages, births, and deaths for the district of Gangaboda pattu in the aforesaid province:

And whereas Abraham de Silva Wirasekhara was appointed district registrar of marriages, births, and deaths for the Ambalangoda district in the aforesaid province:

And whereas each of them, the said Francis Ernest Gunaratna, Don Carolis de Alwis Samarasinha Gunawardhana, and Don Alexander de Silva Madanayaka, have on divers occasions owing to inadvertence acted as registrars of marriages, births, and deaths which occurred out of their respective jurisdictions, (to wit) in the villages of Mabotuwana, Natewala, Kimbiya, Talgampola, and Udubettawa, in the district of Gangaboda pattu:

And whereas Don David de Silva Abhayawikkrama has on divers occasions owing to inadvertence acted as registrar of marriages, births, and deaths which occurred out of his jurisdiction, (to wit) in Ambana, Pinikahana, Kahaduwa, Polgahavila, and Waturavila, of the Wellaboda pattu, and in Niyagama and Horangalla, of the district of Bentota:

And whereas Abraham de Silva Wirasekhara has on divers occasions through inadvertence acted as registrar of marriages, births, and deaths which occurred out of his jurisdiction, (to wit) in Duwa and Godahena of the district of Wellaboda pattu:

And whereas the said Francis Ernest Gunaratna, Don Carolis de Alwis Samarasinha Gunawardhana, Don

* Repealed by No. 1 of 1895.

Digitized by Google

Irregular Registration.

Alexander de Silva Madanayaka, Don David de Silva Abhayawikkrama, and Abraham de Silva Wirasekhara did solemnize and register, and act as registrars in and about divers of such marriages, births, and deaths :

And whereas it is expedient to remove all doubts as to the validity and sufficiency for all purposes of such solemnization and registration, notwithstanding such irregularity as aforesaid : It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows :

Irregular registrations declared valid.

1 The solemnization and registration of all marriages and the registration of all births and deaths which shall have occurred up to the date of the passing hereof in the said villages Mabotuwana, Natewala, Kimbiya, Talgampola, Udubettawa, and shall have been registered before the date of the passing hereof, by the said Francis Ernest Gunaratna, Don Carolis de Alwis Samarasinha Gunawardhana, and Don Alexander de Silva Madanayaka, and which shall have occurred up to the date of the passing hereof in the villages Ambana, Pinikahana, Kahaduwa, Polgahavila, Waturavila, of the Wellaboda pattu, and in Horangalla and Niyagama of the Bentota district, and shall have been registered before the date of the passing hereof by the said Don David de Silva Abhayawikkrama, and which shall have occurred up to the date of the passing hereof in the villages Duwa and Godahena in the Wellaboda pattu, and shall have been registered before the passing hereof by the said Abraham de Silva Wirasekhara ;—shall be as valid and effectual for all purposes intended by or relating to or connected with the provisions of the aforesaid Ordinances No. 6 of 1847* and No. 18 of 1867,† and of the amending Ordinances No. 13 of 1863,‡ entitled "An Ordinance to amend in certain respects the Law of Marriages in this Island, and to provide for the due registration thereof," and No. 8 of 1865,* entitled "An Ordinance to amend the Ordinance No. 13 of 1863," as if the said Francis Ernest Gunaratna, Don Carolis de Alwis Samarasinha Gunawardhana, Don Alexander de Silva Madanayaka, Don David de Silva Abhayawikkrama, and Abraham de Silva Wirasekhara, had been respectively duly appointed registrars of the districts within which the said villages are situate at the respective dates of such registration and solemnization, and at the time when they so acted.

Certain villages declared parts of certain districts up to passing of this Ordinance.

2 Up to the date of the passing hereof, but not thereafter, the villages of Mabotuwana, Natewala, Kimbiya, Talgampola, and Udubettawa shall be taken to belong to and be part of the district of the town, fort, and four gravets of Galle and Akmimana ; and the villages Ambana, Pinikahana, Kahaduwa, Polgahavila, Waturavila, Horangalla, and Niyagama shall be taken to belong to and be part of the district of Gangaboda pattu ; and the villages of Duwa and Godahena shall be taken to belong to and be part of the district of

* Repealed by No. 2 of 1895. † Repealed by Nos. 1 and 2 of 1895.
‡ Repealed by No. 1 of 1895.

Digitized by Google

Irregular Registration.

Ambalangoda for the purposes of registration, and the district registrars of marriages, births, and deaths of the town, fort, and four gravets of Galle and Akmimana, and of the Gangaboda pattu, and of the Ambalangoda district, respectively, shall have jurisdiction over such villages aforesaid up to the date of the passing hereof, but not thereafter, anything to the contrary notwithstanding.

Notices upon which certificates have not been issued transferred to right registrars, who may issue them.

3 All notices which shall have been given to the aforenamed district registrars of marriages of intended marriages out of their respective jurisdictions, and on which certificates have not been issued in pursuance of the 9th clause of the Ordinance No. 13 of 1863,* and after the issue of which three months have not elapsed, shall, at the passing of this Ordinance, be transferred to the district registrars having lawful jurisdiction in that behalf; and such last mentioned registrars shall, on receipt of such notices, and if the said notices be otherwise regular, issue the certificates by the said 9th clause provided; and such certificates shall be as valid and effectual as if the preliminary notices had been given to such last mentioned registrars themselves.

No other defect cured in such registration.

4 Nothing herein contained shall give any validity to the solemnization or registration of any marriage or registration of births and deaths, so irregularly solemnized and registered as aforesaid, except so far as relates to defects thereof caused by the non-appointment of the said registrars, respectively, for the districts, respectively, within which the said villages are situate.

1st December, 1879.

END OF VOLUME I.

GEORGE J. A. SKEEN, GOVERNMENT PRINTER, COLOMBO, CEYLON.

Digitized by Google